

DEPARTMENT OF GOVERNMENT OPERATIONS

2022 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill amends provisions relating to the Department of Government Operations.

Highlighted Provisions:

This bill:

- ▶ permits the Data Security Management Council to hold a closed meeting to conduct business relating to information technology security;
- ▶ modifies provisions relating to rulemaking authority;
- ▶ clarifies provisions relating to the setting of rates and fees;
- ▶ clarifies provisions relating to risk management;
- ▶ modifies provisions relating to the duties of the Division of Archives and Records Services;
- ▶ modifies provisions relating to the duties of the Division of Technology Services;
- ▶ provides that the Department of Government Operations and the divisions within the department present reports to the Legislature through the Government Operations Interim Committee;
- ▶ clarifies a provision relating to career service employment status;
- ▶ classifies as private a record relating to drug or alcohol testing of a state employee;
- and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-6-27, as last amended by Laws of Utah 2021, Chapter 345

26-6-32, as last amended by Laws of Utah 2021, Chapter 345

33 **52-4-204**, as last amended by Laws of Utah 2021, Chapter 217
34 **63A-1-105.5**, as last amended by Laws of Utah 2020, Chapter 408
35 **63A-1-109**, as last amended by Laws of Utah 2021, Chapter 344
36 **63A-1-114**, as last amended by Laws of Utah 2021, Chapters 344 and 382
37 **63A-2-103**, as last amended by Laws of Utah 2019, Chapter 488
38 **63A-2-401**, as repealed and reenacted by Laws of Utah 2019, Chapter 488
39 **63A-3-201**, as last amended by Laws of Utah 2018, Chapter 427
40 **63A-3-203**, as last amended by Laws of Utah 2017, Chapter 56
41 **63A-3-310**, as last amended by Laws of Utah 2020, Chapter 297
42 **63A-4-101.5**, as last amended by Laws of Utah 2021, Chapter 344 and renumbered and
43 amended by Laws of Utah 2021, Chapter 33
44 **63A-4-102**, as last amended by Laws of Utah 2021, Chapter 33
45 **63A-4-201**, as last amended by Laws of Utah 2021, Chapter 33
46 **63A-5b-203**, as enacted by Laws of Utah 2020, Chapter 152
47 **63A-5b-303**, as enacted by Laws of Utah 2020, Chapter 152
48 **63A-5b-606**, as enacted by Laws of Utah 2020, Chapter 152
49 **63A-5b-607**, as last amended by Laws of Utah 2020, Chapter 32 and renumbered and
50 amended by Laws of Utah 2020, Chapter 152 and last amended by Coordination
51 Clause, Laws of Utah 2020, Chapter 152
52 **63A-5b-903**, as renumbered and amended by Laws of Utah 2020, Chapter 152
53 **63A-9-401**, as last amended by Laws of Utah 2021, Chapter 344
54 **63A-9-501**, as last amended by Laws of Utah 2021, Chapter 344
55 **63A-12-101**, as last amended by Laws of Utah 2021, Chapters 84 and 344
56 **63A-12-104**, as last amended by Laws of Utah 2021, Chapter 344
57 **63A-16-102**, as renumbered and amended by Laws of Utah 2021, Chapter 344
58 **63A-16-104**, as last amended by Laws of Utah 2021, Chapter 382 and renumbered and
59 amended by Laws of Utah 2021, Chapter 344
60 **63A-16-105**, as renumbered and amended by Laws of Utah 2021, Chapter 344
61 **63A-16-201**, as renumbered and amended by Laws of Utah 2021, Chapter 344
62 **63A-16-202**, as renumbered and amended by Laws of Utah 2021, Chapter 344
63 **63A-16-203**, as renumbered and amended by Laws of Utah 2021, Chapter 344

64 **63A-16-205**, as renumbered and amended by Laws of Utah 2021, Chapter 344
65 **63A-16-208**, as renumbered and amended by Laws of Utah 2021, Chapter 344
66 **63A-16-211**, as renumbered and amended by Laws of Utah 2021, Chapter 344
67 **63A-16-301**, as renumbered and amended by Laws of Utah 2021, Chapter 344
68 **63A-16-501**, as last amended by Laws of Utah 2021, Chapter 162 and renumbered and
69 amended by Laws of Utah 2021, Chapter 344
70 **63A-16-504**, as renumbered and amended by Laws of Utah 2021, Chapter 344
71 **63A-16-505**, as last amended by Laws of Utah 2021, Chapter 162 and renumbered and
72 amended by Laws of Utah 2021, Chapter 344
73 **63A-16-701**, as renumbered and amended by Laws of Utah 2021, Chapter 344
74 **63A-16-702**, as renumbered and amended by Laws of Utah 2021, Chapter 344
75 **63A-16-804**, as renumbered and amended by Laws of Utah 2021, Chapter 344
76 **63A-16-903**, as renumbered and amended by Laws of Utah 2021, Chapter 344
77 **63A-17-106**, as renumbered and amended by Laws of Utah 2021, Chapter 344
78 **63A-17-107**, as enacted by Laws of Utah 2021, Chapter 344
79 **63A-17-110**, as enacted by Laws of Utah 2021, Chapter 158
80 **63A-17-202**, as last amended by Laws of Utah 2021, Chapter 382 and renumbered and
81 amended by Laws of Utah 2021, Chapter 344
82 **63A-17-304**, as renumbered and amended by Laws of Utah 2021, Chapter 344
83 **63A-17-306**, as renumbered and amended by Laws of Utah 2021, Chapter 344
84 **63A-17-307**, as renumbered and amended by Laws of Utah 2021, Chapter 344
85 **63A-17-806**, as renumbered and amended by Laws of Utah 2021, Chapter 344
86 **63A-17-1004**, as renumbered and amended by Laws of Utah 2021, Chapter 344
87 **63G-2-302**, as last amended by Laws of Utah 2021, Chapters 100, 100, 143, 143, 367,
88 and 367
89 **63I-5-201**, as last amended by Laws of Utah 2021, Chapter 184
90 **67-3-12**, as last amended by Laws of Utah 2021, Chapter 398 and renumbered and
91 amended by Laws of Utah 2021, Chapter 84 and last amended by Coordination
92 Clause, Laws of Utah 2021, Chapter 398
93 **67-19a-101**, as last amended by Laws of Utah 2021, Chapter 344

94 ENACTS:

95 **67-27-101**, Utah Code Annotated 1953

96 RENUMBERS AND AMENDS:

97 **67-27-102**, (Renumbered from 63A-17-901, as renumbered and amended by Laws of
98 Utah 2021, Chapter 344)

99 **67-27-103**, (Renumbered from 63A-17-902, as last amended by Laws of Utah 2021,
100 Chapter 262 and renumbered and amended by Laws of Utah 2021, Chapter 344)

101 **67-27-104**, (Renumbered from 63A-17-903, as renumbered and amended by Laws of
102 Utah 2021, Chapter 344)

103 REPEALS:

104 **63A-16-106**, as renumbered and amended by Laws of Utah 2021, Chapter 344

105 **63A-16-212**, as renumbered and amended by Laws of Utah 2021, Chapter 344

106 **63A-16-213**, as renumbered and amended by Laws of Utah 2021, Chapter 344

107 **63A-16-401**, as renumbered and amended by Laws of Utah 2021, Chapter 344

108 **63A-16-402**, as renumbered and amended by Laws of Utah 2021, Chapter 344

109 **63A-16-403**, as renumbered and amended by Laws of Utah 2021, Chapter 344

110 **63A-16-502**, as renumbered and amended by Laws of Utah 2021, Chapter 344

111 **63A-16-503**, as renumbered and amended by Laws of Utah 2021, Chapter 344

112

113 *Be it enacted by the Legislature of the state of Utah:*

114 Section 1. Section **26-6-27** is amended to read:

115 **26-6-27. Information regarding communicable or reportable diseases**

116 **confidentiality -- Exceptions.**

117 (1) Information collected pursuant to this chapter in the possession of the department
118 or local health departments relating to an individual who has or is suspected of having a disease
119 designated by the department as a communicable or reportable disease under this chapter shall
120 be held by the department and local health departments as strictly confidential. The department
121 and local health departments may not release or make public that information upon subpoena,
122 search warrant, discovery proceedings, or otherwise, except as provided by this section.

123 (2) The information described in Subsection (1) may be released by the department or
124 local health departments only in accordance with the requirements of this chapter and as

125 follows:

126 (a) specific medical or epidemiological information may be released with the written
127 consent of the individual identified in that information or, if that individual is deceased, his
128 next-of-kin;

129 (b) specific medical or epidemiological information may be released to medical
130 personnel or peace officers in a medical emergency, as determined by the department in
131 accordance with guidelines it has established, only to the extent necessary to protect the health
132 or life of the individual identified in the information, or of the attending medical personnel or
133 law enforcement or public safety officers;

134 (c) specific medical or epidemiological information may be released to authorized
135 personnel within the department, local health departments, public health authorities, official
136 health agencies in other states, the United States Public Health Service, the Centers for Disease
137 Control and Prevention (CDC), or when necessary to continue patient services or to undertake
138 public health efforts to interrupt the transmission of disease;

139 (d) if the individual identified in the information is under the age of 18, the information
140 may be released to the Division of Child and Family Services within the Department of Human
141 Services in accordance with Section 62A-4a-403. If that information is required in a court
142 proceeding involving child abuse or sexual abuse under Title 76, Chapter 5, Offenses Against
143 the Person, the information shall be disclosed in camera and sealed by the court upon
144 conclusion of the proceedings;

145 (e) specific medical or epidemiological information may be released to authorized
146 personnel in the department or in local health departments, and to the courts, to carry out the
147 provisions of this title, and rules adopted by the department in accordance with this title;

148 (f) specific medical or epidemiological information may be released to blood banks,
149 organ and tissue banks, and similar institutions for the purpose of identifying individuals with
150 communicable diseases. The department may, by rule, designate the diseases about which
151 information may be disclosed under this subsection, and may choose to release the name of an
152 infected individual to those organizations without disclosing the specific disease;

153 (g) specific medical or epidemiological information may be released in such a way that
154 no individual is identifiable;

155 (h) specific medical or epidemiological information may be released to a "health care

provider" as defined in Section 78B-3-403, health care personnel, and public health personnel who have a legitimate need to have access to the information in order to assist the patient, or to protect the health of others closely associated with the patient;

(i) specific medical or epidemiological information regarding a health care provider, as defined in Section 78B-3-403, may be released to the department, the appropriate local health department, and the Division of Occupational and Professional Licensing within the Department of Commerce, if the identified health care provider is endangering the safety or life of any individual by his continued practice of health care;

(j) specific medical or epidemiological information may be released in accordance with Section 26-6-31 if an individual is not identifiable; and

(k) specific medical or epidemiological information may be released to a state agency as defined in Section ~~[63A-17-901]~~ 67-27-102, to perform the analysis described in Subsection 26-6-32(4) if the state agency agrees to act in accordance with the requirements in this chapter.

(3) The provisions of Subsection (2)(h) do not create a duty to warn third parties, but is intended only to aid health care providers in their treatment and containment of infectious disease.

Section 2. Section **26-6-32** is amended to read:

**26-6-32. Testing for COVID-19 for high-risk individuals at care facilities --
Collection and release of information regarding risk factors and comorbidities for
COVID-19.**

(1) As used in this section:

(a) "Care facility" means a facility described in Subsections 26-6-6(2) through (6).

(b) "COVID-19" means the same as that term is defined in Section 78B-4-517.

(2) (a) At the request of the department or a local health department, an individual who meets the criteria established by the department under Subsection (2)(b) shall submit to testing for COVID-19.

(b) The department:

(i) shall establish protocols to identify and test individuals who are present at a care facility and are at high risk for contracting COVID-19;

(ii) may establish criteria to identify care facilities where individuals are at high risk for COVID-19; and

(iii) may establish who is responsible for the costs of the testing.

(c) (i) The protocols described in Subsection (2)(b)(i) shall:

(A) notwithstanding Subsection (2)(a), permit an individual who is a resident of a care facility to refuse testing; and

(B) specify criteria for when an individual's refusal to submit to testing under Subsection (2)(c)(i)(A) endangers the health or safety of other individuals at the care facility.

(ii) Notwithstanding any other provision of state law, a care facility may discharge a resident who declines testing requested by the department under Subsection (2)(a) if:

(A) under the criteria specified by the department under Subsection (2)(c)(i)(B), the resident's refusal to submit to testing endangers the health or safety of other individuals at the care facility; and

(B) discharging the resident does not violate federal law.

(3) The department may establish protocols to collect information regarding the individual's age and relevant comorbidities from an individual who receives a positive test result for COVID-19.

(4) (a) The department shall publish deidentified information regarding comorbidities and other risk factors for COVID-19 in a manner that is accessible to the public.

(b) The department may work with a state agency as defined in Section ~~[63A-17-901]~~ 67-27-102, to perform the analysis or publish the information described in Subsection (4)(a).

Section 3. Section ~~52-4-204~~ is amended to read:

52-4-204. Closed meeting held upon vote of members -- Business -- Reasons for meeting recorded.

(1) A closed meeting may be held if:

(a) (i) a quorum is present;

(ii) the meeting is an open meeting for which notice has been given under Section 52-4-202; and

(iii) (A) two-thirds of the members of the public body present at the open meeting vote to approve closing the meeting;

(B) for a meeting that is required to be closed under Section 52-4-205, if a majority of the members of the public body present at an open meeting vote to approve closing the meeting;

(C) for an ethics committee of the Legislature that is conducting an open meeting for the purpose of reviewing an ethics complaint, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; or

(D) for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201 that is conducting an open meeting for the purpose of reviewing an ethics complaint in accordance with Section 63A-15-701, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; or

(b) (i) for the Independent Legislative Ethics Commission, the closed meeting is convened for the purpose of conducting business relating to the receipt or review of an ethics complaint, ~~[provided that]~~ if public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the receipt or review of ethics complaints";

(ii) for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, the closed meeting is convened for the purpose of conducting business relating to the preliminary review of an ethics complaint in accordance with Section 63A-15-602, ~~[provided that]~~ if public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the review of ethics complaints"; ~~[or]~~

(iii) for the Independent Executive Branch Ethics Commission created in Section 63A-14-202, the closed meeting is convened for the purpose of conducting business relating to an ethics complaint, ~~[provided that]~~ if public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to an ethics complaint[-]"; or

(iv) for the Data Security Management Council created in Section 63A-16-701, the closed meeting is convened for the purpose of conducting business described in Subsection 63A-16-701(5), if public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting

249 business relating to information technology security."

250 (2) A closed meeting is not allowed unless each matter discussed in the closed meeting
251 is permitted under Section 52-4-205.

252 (3) (a) An ordinance, resolution, rule, regulation, contract, or appointment may not be
253 approved at a closed meeting.

254 (b) (i) A public body may not take a vote in a closed meeting, except for a vote on a
255 motion to end the closed portion of the meeting and return to an open meeting.

256 (ii) A motion to end the closed portion of a meeting may be approved by a majority of
257 the public body members present at the meeting.

258 (4) The following information shall be publicly announced and entered on the minutes
259 of the open meeting at which the closed meeting was approved:

260 (a) the reason or reasons for holding the closed meeting;

261 (b) the location where the closed meeting will be held; and

262 (c) the vote by name, of each member of the public body, either for or against the
263 motion to hold the closed meeting.

264 (5) Except as provided in Subsection 52-4-205(2), nothing in this chapter shall be
265 construed to require any meeting to be closed to the public.

266 Section 4. Section **63A-1-105.5** is amended to read:

267 **63A-1-105.5. Rulemaking authority of executive director.**

268 The executive director [~~staff~~] may, upon the recommendation of the appropriate
269 division directors or the director of the Office of Administrative Rules, make rules consistent
270 with state and federal law, and in accordance with Title 63G, Chapter 3, Utah Administrative
271 Rulemaking Act, governing:

272 (1) [~~administrative~~] services of the department; and

273 (2) the provision and use of [~~administrative~~] services furnished to state agencies and
274 institutions.

275 Section 5. Section **63A-1-109** is amended to read:

276 **63A-1-109. Divisions of department -- Administration.**

277 (1) The department is composed of:

278 (a) the following divisions:

279 (i) the Division of Purchasing and General Services, created in Section 63A-2-101;

(ii) the Division of Finance, created in Section 63A-3-101;

(iii) the Division of Facilities Construction and Management, created in Section 63A-5b-301;

(iv) the Division of Fleet Operations, created in Section 63A-9-201;

(v) the Division of Archives and Records Service, created in Section 63A-12-101;

(vi) the Division of Technology Services, created in Section 63A-16-103;

(vii) the Division of Human Resource Management, created in Section 63A-17-105;

and

(viii) the Division of Risk Management, created in Section 63A-16-201; and

(b) the [Utah] Office of Administrative Rules, created in Section 63G-3-401.

(2) Each division described in Subsection (1)(a) shall be administered and managed by a division director.

Section 6. Section **63A-1-114** is amended to read:

63A-1-114. Rate committee -- Membership -- Duties.

(1) (a) There is created a rate committee consisting of the executive directors, commissioners, or superintendents of seven state agencies, which may include the State Board of Education, that use services and pay rates to one of the department internal service funds, or their designee, that the governor appoints for a two-year term.

(b) The department may not have a representative on the rate committee.

(c) (i) The committee shall elect a chair from the committee's members.

(ii) Members of the committee who are state government employees and who do not receive salary, per diem, or expenses from their agency for their service on the committee shall receive no compensation, benefits, per diem, or expenses for the members' service on the committee.

(d) The department shall provide staff services to the committee.

(2) (a) A division described in Section 63A-1-109 that manages an internal service fund shall submit to the committee a proposed rate [and fee] schedule for services rendered by the division to an executive branch entity or an entity that subscribes to services rendered by the division.

(b) The committee shall:

(i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings

311 Act;

312 (ii) meet at least once each calendar year to:

313 (A) discuss the service performance of each internal service fund;

314 (B) review the proposed rate [~~and fee~~] schedules;

315 (C) at the rate committee's discretion, approve, increase, or decrease the rate [~~and fee~~]

316 schedules described in Subsection (2)(b)(ii)(B); and

317 (D) discuss any prior or potential adjustments to the service level received by state

318 agencies that pay rates to an internal service fund;

319 (iii) recommend a proposed rate [~~and fee~~] schedule for each internal service fund to:

320 (A) the Governor's Office of Planning and Budget; and

321 (B) each legislative appropriations subcommittee that, in accordance with Section

322 63J-1-410, approves the internal service fund agency's rates[~~, fees,~~] and budget; and

323 (iv) review and approve, increase, or decrease an interim rate[~~, fee, or amount~~] when an

324 internal service fund agency begins a new service or introduces a new product between annual

325 general sessions of the Legislature.

326 (c) The committee may in accordance with Subsection 63J-1-410(4), decrease a rate[~~, fee, or amount~~]

327 that has been approved by the Legislature.

328 Section 7. Section **63A-2-103** is amended to read:

329 **63A-2-103. Duties and authority of purchasing director -- Subscribing to mailing**

330 **system and electronic central store -- Rate schedule.**

331 (1) The purchasing director:

332 (a) shall operate, manage, and maintain:

333 (i) a central mailing service; and

334 (ii) an electronic central store system for procuring goods and services;

335 (b) shall, except when a state surplus property contractor administers the surplus

336 property program, operate, manage, and maintain the surplus property program;

337 (c) shall, when a state surplus property contractor administers the surplus property

338 program, oversee the state surplus property contractor's administration of the surplus property

339 program in accordance with Part 4, Surplus Property Services; and

340 (d) may establish microfilming, duplicating, printing, addressograph, and other central

341 services.

(2) (a) Each state agency shall subscribe to all of the services described in Subsection (1)(a), unless the director delegates the director's authority to a state agency under Section 63A-2-104.

(b) An institution of higher education, the State Board of Education, a school district, or a political subdivision of the state may subscribe to one or more of the services described in Subsection (1)(a).

(3) (a) The purchasing director shall:

(i) prescribe a schedule of ~~[fees]~~ rates to be charged for all services provided by the division after the purchasing director:

(A) submits the proposed ~~[rate, fees, or other amounts]~~ rates for services provided by the division's internal service fund to the Rate Committee established in Section 63A-1-114; and

(B) obtains the approval of the Legislature, as required by Section ~~[63J-1-504]~~ 63J-1-410;

(ii) ensure that the ~~[fees]~~ rates are approximately equal to the cost of providing the services; and

(iii) annually conduct a market analysis of ~~[fees]~~ rates.

(b) A market analysis under Subsection (3)(a)(iii) shall include a comparison of the division's rates with the ~~[fees]~~ rates of other public or private sector providers if comparable services and rates are reasonably available.

Section 8. Section **63A-2-401** is amended to read:

63A-2-401. State agencies required to participate in surplus property program -- Declaring property to be state surplus property -- Division authority.

(1) Except as otherwise provided in this part, a state agency shall dispose of and acquire state surplus property by participating in the surplus property program.

(2) A state agency may declare property that the state agency owns to be state surplus property by making a written determination that the property is state surplus property.

(3) The division shall determine the appropriate method for disposing of state surplus property.

(4) The division may:

(a) establish facilities to store state surplus property at locations throughout the state;

and

(b) after consultation with the state agency requesting the sale of state surplus property, establish the selling price for the state surplus property.

(5) As provided in Title 63J, Chapter 1, Budgetary Procedures Act, the division may transfer proceeds generated by the sale of state surplus property to the state agency requesting the sale, reduced by a ~~[fee]~~ rate approved in accordance with Subsection 63A-2-103(3) to pay the division's costs of administering the surplus property program.

(6) By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing a surplus property program that meets the requirements of this chapter.

Section 9. Section **63A-3-201** is amended to read:

63A-3-201. Appointment of accounting and other officers and employees by director of the Division of Finance -- Delegation of powers and duties by director -- Background checks.

(1) With the approval of the executive director, the director of the Division of Finance shall appoint an accounting officer and other administrative officers that are necessary to efficiently and economically perform the functions of the Division of Finance.

(2) The director of the Division of Finance may:

(a) organize the division and employ other assistants to discharge the functions of the division;

(b) delegate to assistants, officers, and employees any of the powers and duties of the office subject to his or her control and subject to any conditions he may prescribe; and

(c) delegate the powers and duties of the office only by written order filed with the lieutenant governor.

(3) (a) As used in this Subsection (3):

(i) "Public employee" means a person employed by a state agency.

(ii) "Public funds" means money, funds, and accounts, regardless of the source from which the money, funds, and accounts are derived, that are owned, held, or administered by a state agency.

(iii) "Public funds position" means employment with a state agency that requires:

(A) physical or electronic access to public funds;

(B) performing internal control functions or accounting;

(C) creating reports on public funds; or

(D) using, operating, or accessing state systems that account for or help account for public funds.

(iv) "State agency" means:

(A) an executive branch agency; or

(B) a state educational institution with the exception of an institution defined in Subsection 53B-1-102(1).

(b) The Division of Finance may require that a public employee who applies for or holds a public funds position:

(i) submit a fingerprint card in a form acceptable to the division;

(ii) consent to a criminal background check by:

(A) the Federal Bureau of Investigation;

(B) the Utah Bureau of Criminal Identification; or

(C) another agency of any state that performs criminal background checks; or

(iii) consent to a credit history report, subject to the requirements of the Fair Credit Reporting Act, 15 U.S.C. Sec. 1681 et seq.

(c) The Bureau of Criminal Identification shall provide all the results from the state, regional, and nationwide criminal history background checks to the division.

(d) The Division of Finance may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, ~~[adopt]~~ make rules to implement this section.

Section 10. Section **63A-3-203** is amended to read:

**63A-3-203. Accounting control over state departments and agencies --
Prescription and approval of financial forms and accounting systems.**

(1) The director of the Division of Finance shall:

(a) exercise accounting control over all state departments and agencies except institutions of higher education; and

(b) prescribe the manner and method of certifying that funds are available and adequate to meet all contracts and obligations.

(2) The director shall audit all claims against the state for which an appropriation [~~has been~~] is made.

(3) (a) The director shall prescribe:

(i) all forms of requisitions, receipts, vouchers, bills, or claims to be used by all state departments and agencies; and

(ii) all forms to be used by the division.

(b) Before approving the forms in Subsection (3)(a), the director shall obtain approval from the state auditor that the forms will adequately facilitate the post-audit of public accounts.

(4) Before implementation by any state agency, the director of the Division of Finance shall review and approve any accounting system developed by a state agency.

Section 11. Section **63A-3-310** is amended to read:

63A-3-310. Rules for implementing part.

The division may ~~[adopt]~~ make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the implementation of this part, including rules for the conduct of hearings, injured spouse claims, and appointment of hearing examiners.

Section 12. Section **63A-4-101.5** is amended to read:

63A-4-101.5. Risk manager -- Appointment -- Duties.

(1) (a) There is created within the department the Division of Risk Management.

(b) The executive director shall, with the approval of the governor, appoint a risk manager as the division director, who shall be qualified by education and experience in the management of general property and casualty insurance.

(2) The risk manager shall:

(a) except as provided in Subsection (4), acquire and administer the following purchased by the state or any captive insurance company created by the risk manager:

(i) all property and casualty insurance;

(ii) reinsurance of property and casualty insurance; and

(iii) subject to Section 34A-2-203, workers' compensation insurance;

~~[(b) recommend that the executive director make rules:]~~

(b) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) prescribing reasonable and objective underwriting and risk control standards for:

(A) all covered entities of the Risk Management Fund; and

(B) any captive insurance company created by the risk manager;

(ii) prescribing the risks to be covered by the Risk Management Fund and the extent to which these risks will be covered;

(iii) prescribing the properties, risks, deductibles, and amount limits eligible for payment out of the Risk Management Fund;

(iv) prescribing procedures for making claims and proof of loss; and

(v) establishing procedures for the resolution of disputes relating to coverage or claims, which may include binding arbitration;

(c) implement a risk management and loss prevention program for covered entities for the purpose of reducing risks, accidents, and losses to assist covered entities in fulfilling their responsibilities for risk control and safety;

(d) coordinate and cooperate with any covered entity having responsibility to manage and protect state properties, including:

(i) the state fire marshal;

(ii) the director of the Division of Facilities Construction and Management;

(iii) the Department of Public Safety;

(iv) institutions of higher education;

(v) school districts; and

(vi) charter schools;

(e) maintain records necessary to fulfill the requirements of this section;

(f) manage the Risk Management Fund and any captive insurance company created by the risk manager in accordance with economically and actuarially sound principles to produce adequate reserves for the payment of contingencies, including unpaid and unreported claims, and may purchase any insurance or reinsurance considered necessary to accomplish this objective; and

(g) inform the covered entity's governing body and the governor when any covered entity fails or refuses to comply with reasonable risk control recommendations made by the risk manager.

(3) Before the effective date of any rule, the risk manager shall provide a copy of the rule to each covered entity affected by it.

(4) The risk manager may not use a captive insurance company created by the risk manager to purchase:

497 (a) workers' compensation insurance;

498 (b) health insurance; or

499 (c) life insurance.

500 Section 13. Section **63A-4-102** is amended to read:

501 **63A-4-102. Risk manager -- Powers.**

502 (1) The risk manager may:

503 (a) enter into contracts;

504 (b) form one or more captive insurance companies authorized under Title 31A, Chapter
505 37, Captive Insurance Companies Act;

506 (c) purchase insurance or reinsurance;

507 (d) adjust, settle, and pay claims;

508 (e) pay expenses and costs;

509 (f) study the risks of all covered entities and properties;

510 (g) issue certificates of coverage or insurance for covered entities with respect to any
511 risks covered by the Risk Management Fund or any captive insurance company created by the
512 risk manager;

513 (h) make recommendations about risk management and risk reduction strategies to
514 covered entities;

515 (i) in consultation with the attorney general, prescribe insurance, indemnification, and
516 liability provisions to be included in all state contracts;

517 (j) review covered entity building construction, major remodeling plans, [agency]
518 program plans, and make recommendations to the [agency] covered entity about needed
519 changes to address risk considerations;

520 (k) attend [agency] covered entity planning and management meetings when necessary;

521 (l) review any proposed legislation and communicate with legislators and legislative
522 committees about the liability or risk management issues connected with any legislation; and

523 (m) solicit any needed information about [~~agency plans, agency programs, or agency~~]
524 covered entity plans, programs, or risks necessary to perform the risk manager's responsibilities
525 under this part.

526 (2) (a) The risk manager may expend money from the Risk Management Fund to
527 procure and provide coverage to all covered entities and their indemnified employees, except

those entities or employees specifically exempted by statute.

(b) The risk manager shall apportion the costs of that coverage according to the requirements of this part.

(3) Before charging a rate, fee, or other amount to an executive branch agency, or to a subscriber of services other than an executive branch agency, the director shall:

(a) submit the proposed rates, fees, or other amount and cost analysis to the Rate Committee established in Section 63A-1-114; and

(b) obtain the approval of the Legislature as required by Section 63J-1-410.

(4) The director shall conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed rates and ~~[fees]~~ premiums, which analysis shall include a comparison of the division's rates and ~~[fees with the fees]~~ premiums with the rates and premiums of other public or private sector providers where comparable services and rates are reasonably available.

Section 14. Section **63A-4-201** is amended to read:

63A-4-201. Risk Management Fund created -- Administration -- Use.

(1) (a) There is created the Risk Management Fund, which shall be administered by the risk manager.

(b) The fund shall cover property, liability, fidelity, and other risks as determined by the risk manager in consultation with the executive director.

(2) The risk manager may only use the Risk Management Fund to pay:

(a) insurance or reinsurance premiums;

(b) costs of administering the Risk Management Fund and any captive insurance companies created by the risk manager;

(c) loss adjustment expenses;

(d) risk control and related educational and training expenses; and

(e) loss costs which at the time of loss were eligible for payment under rules ~~[previously issued by the executive director under the authority of Section 63A-4-101.5]~~ made by the risk manager in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) In addition to any money appropriated to the Risk Management Fund by the Legislature, the risk manager shall deposit with the state treasurer for credit to the Risk Management Fund:

(a) any insured loss or loss expenses paid by insurance or reinsurance companies;

(b) the gross amount of all premiums and surcharges received under Section

63A-4-202;

(c) the net refunds from cancelled insurance policies necessary to self-insure previously insured risks, with the balance of the proceeds to be refunded to the previously insured entities;

(d) all refunds, returns, or dividends from insurance carriers not specifically covered in Subsections (3)(a), (b), and (c);

(e) savings from amounts otherwise appropriated for participation in the fund; and

(f) all net proceeds from sale of salvage and subrogation recoveries from adverse parties related to losses paid out of the fund.

(4) The state treasurer shall invest the Risk Management Fund in accordance with Section 63A-4-208 and deposit all interest or other income earned from investments into the Risk Management Fund.

Section 15. Section **63A-5b-203** is amended to read:

63A-5b-203. Meetings of state building board -- Rules of procedure -- Quorum.

(1) The board shall meet quarterly and at other times at the call of the executive director or at the request of the board chair.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall ~~adopt~~ make rules of procedure for the conduct of the board's meetings.

(3) Four members of the board constitute a quorum for the transaction of business.

(4) The board shall conduct all meetings of the board in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

Section 16. Section **63A-5b-303** is amended to read:

63A-5b-303. Duties and authority of division.

(1) (a) The division shall:

(i) subject to Subsection (1)(b), supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts, other legislation, or statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except as provided in Subsection (3) or as otherwise provided by statute;

(ii) assure the efficient use of all building space under the division's supervision and control;

(iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by the state or an agency, as authorized by the Legislature through an appropriation act, other legislation, or statute, subject to Subsection (1)(c);

(iv) except as otherwise provided by statute, hold title to all real property, buildings, fixtures, and appurtenances owned by the state or an agency;

(v) collect and maintain all deeds, abstracts of title, and all other documents evidencing title to or an interest in property belonging to the state or of the state's departments, except institutions of higher education and the trust lands administration;

(vi) (A) periodically conduct a market analysis of proposed rates and fees; and

(B) include in a market analysis a comparison of the division's rates and fees with the rates and fees of other public or private sector providers of comparable services, if rates and fees for comparable services are reasonably available;

(vii) implement the state building energy efficiency program under Section 63A-5b-1002;

(viii) convey, lease, or dispose of the real property, water rights, or water shares associated with the Utah State Developmental Center if directed to do so by the Utah State Developmental Center board, as provided in Subsection 62A-5-206.6(2); and

(ix) take all other action that the division is required to do under this chapter or other applicable statute.

(b) In making an allocation of space under Subsection (1)(a)(i), the division shall conduct one or more studies to determine the actual needs of each agency.

(c) The division may, without legislative approval, acquire title to real property for use by the state or an agency if the acquisition cost does not exceed \$250,000.

(2) The division may:

(a) sue and be sued;

(b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or otherwise, and hold real or personal property necessary for the discharge of the division's duties; and

(c) take all other action necessary for carrying out the purposes of this chapter.

(3) (a) The division may not supervise or control the allocation of space for an institution of higher education or an entity in the public education system.

(b) The supervision and control of the legislative area is reserved to the Legislature.

(c) The supervision and control of the trial courts area is reserved to the judiciary.

(d) The supervision and control of capitol hill facilities and capitol hill grounds is reserved to the State Capitol Preservation Board.

(4) Before the division charges a rate, fee, or other amount for a service provided by the division's internal service fund to an executive branch agency, or to a service subscriber other than an executive branch agency, the division shall:

(a) submit an analysis of the proposed rate, fee, or other amount to the rate committee created in Section 63A-1-114; and

(b) obtain the approval of the Legislature as required by Section 63J-1-410 or 63J-1-504.

Section 17. Section **63A-5b-606** is amended to read:

63A-5b-606. Dispute resolution process -- Penalties for fraud or bad faith claim.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director shall ~~[adopt]~~ make rules for the division establishing a process for resolving disputes involved with contracts under the division's procurement authority.

(2) The director shall consider, and the rules may include:

(a) requirements regarding preliminary resolution efforts between the parties directly involved with the dispute;

(b) requirements for the filing of a claim, including notification, time frames, and documentation;

(c) identification of the types of costs eligible for allocation and a method for allocating costs among the parties to the dispute;

(d) a required time period, not to exceed 60 days, for the resolution of the claim;

(e) a provision for an independent hearing officer, panel, or arbitrator to extend the time period for resolution of the claim by not to exceed 60 additional days for good cause;

(f) a provision for the extension of required time periods if the claimant agrees;

(g) requirements that decisions be issued in writing;

(h) provisions for an administrative appeal of a decision;

(i) provisions for the timely payment of claims after resolution of the dispute, including any appeals;

(j) a requirement that the final determination resulting from the dispute resolution process provided for in the rules is a final agency action subject to judicial review as provided in Sections 63G-4-401 and 63G-4-402;

(k) a requirement that a claim or dispute that does not include a monetary claim against the division or an agent of the division is not limited to the dispute resolution process provided for in this section;

(l) requirements for claims and disputes to be eligible for the dispute resolution process under this section;

(m) the use of an independent hearing officer or panel or the use of arbitration or mediation; and

(n) the circumstances under which a subcontractor may file a claim directly with the division.

(3) A person pursuing a claim under the process established as provided in this section:

(a) is bound by the decision reached under this process, subject to any modification of the decision on appeal; and

(b) may not pursue a claim, protest, or dispute under the dispute resolution process established in Title 63G, Chapter 6a, Utah Procurement Code.

(4) A fraudulent misrepresentation made by or bad faith claim pursued by a contractor, subcontractor, or supplier, may be grounds for:

(a) the director to suspend or debar the contractor, subcontractor, or supplier; or

(b) the contractor, subcontractor, or supplier to be disciplined by the Division of Professional and Occupational Licensing.

Section 18. Section **63A-5b-607** is amended to read:

63A-5b-607. Health insurance requirements -- Penalties.

(1) As used in this section:

(a) "Aggregate amount" means the dollar sum of all contracts, change orders, and modifications for a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Eligible employee" means an employee, as defined in Section 34A-2-104, who:

(i) works at least 30 hours per calendar week; and

(ii) meets the employer eligibility waiting period for qualified health insurance

683 coverage provided by the employer.

684 (d) "Health benefit plan" means:

685 (i) the same as that term is defined in Section 31A-1-301; or

686 (ii) an employee welfare benefit plan:

687 (A) established under the Employee Retirement Income Security Act of 1974, 29

688 U.S.C. Sec. 1001 et seq.;

689 (B) for an employer with 100 or more employees; and

690 (C) in which the employer establishes a self-funded or partially self-funded group
691 health plan to provide medical care for the employer's employees and dependents of the
692 employees.

693 (e) "Qualified health insurance coverage" means the same as that term is defined in
694 Section 26-40-115.

695 (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

696 (g) "Third party administrator" or "administrator" means the same as that term is
697 defined in Section 31A-1-301.

698 (2) Except as provided in Subsection (3), the requirements of this section apply to:

699 (a) a contractor of a design or construction contract with the division if the prime
700 contract is in an aggregate amount of \$2,000,000 or more; and

701 (b) a subcontractor of a contractor of a design or construction contract with the division
702 if the subcontract is in an aggregate amount of \$1,000,000 or more.

703 (3) The requirements of this section do not apply to a contractor or subcontractor if:

704 (a) the application of this section jeopardizes the division's receipt of federal funds;

705 (b) the contract is a sole source contract, as defined in Section 63G-6a-103; or

706 (c) the contract is the result of an emergency procurement.

707 (4) A person who intentionally uses a change order, contract modification, or multiple
708 contracts to circumvent the requirements of this section is guilty of an infraction.

709 (5) (a) A contractor that is subject to the requirements of this section shall:

710 (i) make and maintain an offer of qualified health coverage for the contractor's eligible
711 employees and the eligible employees' dependents; and

712 (ii) submit to the director a written statement demonstrating that the contractor is in
713 compliance with Subsection (5)(a)(i).

714 (b) A statement under Subsection (5)(a)(ii):
715 (i) shall be from:
716 (A) an actuary selected by the contractor or the contractor's insurer;
717 (B) an underwriter who is responsible for developing the employer group's premium
718 rates; or
719 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),
720 an actuary or underwriter selected by a third party administrator; and
721 (ii) may not be created more than one year before the day on which the contractor
722 submits the statement to the director.
723 (c) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)
724 shall provide the actuary or underwriter selected by an administrator, as described in
725 Subsection (5)(b)(i)(C), sufficient information to determine whether the contractor's
726 contribution to the health benefit plan and the actuarial value of the health benefit plan meet the
727 requirements of qualified health coverage.
728 (ii) A contractor may not make a change to the contractor's contribution to the health
729 benefit plan, unless the contractor provides notice to:
730 (A) the actuary or underwriter selected by an administrator, as described in Subsection
731 (5)(b)(i)(C), for the actuary or underwriter to update the written statement described in
732 Subsection (5)(a) in compliance with this section; and
733 (B) the division.
734 (6) (a) A contractor that is subject to the requirements of this section shall:
735 (i) ensure that each contract the contractor enters with a subcontractor that is subject to
736 the requirements of this section requires the subcontractor to obtain and maintain an offer of
737 qualified health coverage for the subcontractor's eligible employees and the eligible employees'
738 dependents during the duration of the subcontract; and
739 (ii) obtain from a subcontractor referred to in Subsection (6)(a)(i) a written statement
740 demonstrating that the subcontractor offers qualified health coverage to eligible employees and
741 eligible employees' dependents.
742 (b) A statement under Subsection (6)(a)(ii):
743 (i) shall be from:
744 (A) an actuary selected by the subcontractor or the subcontractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(ii) may not be created more than one year before the day on which the contractor obtains the statement from the subcontractor.

(7) (a) (i) A contractor that fails to maintain an offer of qualified health coverage during the duration of the contract as required in this section is subject to penalties in accordance with administrative rules ~~[adopted]~~ made by the division under this section, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(ii) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage as required in this section.

(b) (i) A subcontractor that fails to obtain and maintain an offer of qualified health coverage during the duration of the subcontract as required in this section is subject to penalties in accordance with administrative rules ~~[adopted]~~ made by the division under this section, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(ii) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage as required in this section.

(8) The division shall ~~[adopt administrative]~~ make rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) a public transit district in accordance with Section 17B-2a-818.5;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) that establish:

(i) the requirements and procedures for a contractor and a subcontractor to demonstrate compliance with this section, including:

(A) a provision that a contractor or subcontractor's compliance with this section is

subject to an audit by the division or the Office of the Legislative Auditor General;

(B) a provision that a contractor that is subject to the requirements of this section obtain a written statement as provided in Subsection (5); and

(C) a provision that a subcontractor that is subject to the requirements of this section obtain a written statement as provided in Subsection (6);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into a future contract with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into a future contract with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for eligible employees and dependents of eligible employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and

(iii) a website for the department to post the commercially equivalent benchmark for the qualified health coverage that is provided by the Department of Health in accordance with Subsection 26-40-115(2).

(9) During the duration of a contract, the division may perform an audit to verify a contractor or subcontractor's compliance with this section.

(10) (a) Upon the division's request, a contractor or subcontractor shall provide the division:

(i) a signed actuarial certification that the coverage the contractor or subcontractor offers is qualified health coverage; or

(ii) all relevant documents and information necessary for the division to determine compliance with this section.

(b) If a contractor or subcontractor provides the documents and information described in Subsection (10)(a)(i), the Insurance Department shall assist the division in determining if the coverage the contractor or subcontractor offers is qualified health coverage.

(11) (a) (i) In addition to the penalties imposed under Subsection (7), a contractor or subcontractor that intentionally violates the provisions of this section is liable to an eligible employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (11)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5) or (6); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An eligible employee has a private right of action against the employee's employer only as provided in this Subsection (11).

(12) The director shall cause money collected from the imposition and collection of a penalty under this section to be deposited into the Medicaid Restricted Account created by Section 26-18-402.

(13) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(14) An employer's waiting period for an employee to become eligible for qualified health coverage may not extend beyond the first day of the calendar month following 60 days after the day on which the employee is hired.

(15) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (11)(b), is not liable for an error in the written statement,

unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 19. Section **63A-5b-903** is amended to read:

63A-5b-903. Rules made by the division.

The division may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules ~~[to]~~ that:

(1) establish criteria that a written proposal is required to satisfy in order to be a qualified proposal, including, if applicable, a minimum acceptable purchase price; and

(2) define criteria that the director will consider in making a determination whether a proposed use or occupancy, transfer of ownership, or lease of vacant division-owned property provides a material benefit to the state.

Section 20. Section **63A-9-401** is amended to read:

63A-9-401. Division -- Duties.

(1) The division shall:

(a) perform all administrative duties and functions related to management of state vehicles;

(b) coordinate all purchases of state vehicles;

(c) establish one or more fleet automation and information systems for state vehicles;

(d) make rules establishing requirements for:

(i) maintenance operations for state vehicles;

(ii) use requirements for state vehicles;

(iii) fleet safety and loss prevention programs;

(iv) preventative maintenance programs;

(v) procurement of state vehicles, including:

(A) vehicle standards;

(B) alternative fuel vehicle requirements;

(C) short-term lease programs;

(D) equipment installation; and

869 (E) warranty recovery programs;
870 (vi) fuel management programs;
871 (vii) cost management programs;
872 (viii) business and personal use practices, including commute standards;
873 (ix) cost recovery and billing procedures;
874 (x) disposal of state vehicles;
875 (xi) reassignment of state vehicles and reallocation of vehicles throughout the fleet;
876 (xii) standard use and rate structures for state vehicles; and
877 (xiii) insurance and risk management requirements;
878 (e) establish a parts inventory;
879 (f) create and administer a fuel dispensing services program that meets the
880 requirements of Subsection (2);
881 (g) emphasize customer service when dealing with agencies and agency employees;
882 (h) conduct an annual audit of all state vehicles for compliance with division
883 requirements;
884 (i) before charging a rate, fee, or other amount to an executive branch agency, or to a
885 subscriber of services other than an executive branch agency:
886 (i) submit the proposed rates, fees, and cost analysis to the Rate Committee established
887 in Section 63A-1-114; and
888 (ii) obtain the approval of the Legislature as required by Section 63J-1-410 or
889 63J-1-504; and
890 (j) conduct an annual market analysis of proposed rates and fees, which analysis shall
891 include a comparison of the division's rates and fees with the fees of other public or private
892 sector providers where comparable services and rates are reasonably available.
893 (2) The division shall operate a fuel dispensing services program in a manner that:
894 (a) reduces the risk of environmental damage and subsequent liability for leaks
895 involving state-owned underground storage tanks;
896 (b) eliminates fuel site duplication and reduces overall costs associated with fuel
897 dispensing;
898 (c) provides efficient fuel management and efficient and accurate accounting of
899 fuel-related expenses;

(d) where practicable, privatizes portions of the state's fuel dispensing system;

(e) provides central planning for fuel contingencies;

(f) establishes fuel dispensing sites that meet geographical distribution needs and that reflect usage patterns;

(g) where practicable, uses alternative sources of energy; and

(h) provides safe, accessible fuel supplies in an emergency.

(3) The division shall:

(a) ensure that the state and each of its agencies comply with state and federal law and state and federal rules and regulations governing underground storage tanks;

(b) coordinate the installation of new state-owned underground storage tanks and the upgrading or retrofitting of existing underground storage tanks;

(c) by no later than June 30, 2025, ensure that an underground storage tank qualifies for a rebate, provided under Subsection 19-6-410.5(5)(d), of a portion of the environmental assurance fee described in Subsection 19-6-410.5(4), if the underground storage tank is owned by:

(i) the state;

(ii) a state agency; or

(iii) a county, municipality, school district, local district, special service district, or federal agency that has subscribed to the fuel dispensing service provided by the division under Subsection (6)(b);

(d) report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee by no later than:

(i) November 30, 2020, on the status of the requirements of Subsection (3)(c); and

(ii) November 30, 2024, on whether:

(A) the requirements of Subsection (3)(c) have been met; and

(B) additional funding is needed to accomplish the requirements of Subsection (3)(c);

and

(e) ensure that counties, municipalities, school districts, local districts, and special service districts subscribing to services provided by the division sign a contract that:

(i) establishes the duties and responsibilities of the parties;

(ii) establishes the cost for the services; and

931 (iii) defines the liability of the parties.

932 (4) In fulfilling the requirements of Subsection (3)(c), the division may give priority to
933 underground storage tanks owned by the state or a state agency under Subsections (3)(c)(i) and
934 (ii).

935 (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
936 the director of the Division of Fleet Operations:

937 (i) may make rules governing fuel dispensing; and

938 (ii) shall make rules establishing standards and procedures for purchasing the most
939 economically appropriate size and type of vehicle for the purposes and driving conditions for
940 which the vehicle will be used, including procedures for granting exceptions to the standards
941 by the executive director of the Department of Government Operations.

942 (b) Rules made under Subsection (5)(a)(ii):

943 (i) shall designate a standard vehicle size and type that shall be designated as the
944 statewide standard vehicle for fleet expansion and vehicle replacement;

945 (ii) may designate different standard vehicle size and types based on defined categories
946 of vehicle use;

947 (iii) may, when determining a standard vehicle size and type for a specific category of
948 vehicle use, consider the following factors affecting the vehicle class:

949 (A) size requirements;

950 (B) economic savings;

951 (C) fuel efficiency;

952 (D) driving and use requirements;

953 (E) safety;

954 (F) maintenance requirements;

955 (G) resale value; and

956 (H) the requirements of Section 63A-9-403; and

957 (iv) shall require agencies that request a vehicle size and type that is different from the
958 standard vehicle size and type to:

959 (A) submit a written request for a nonstandard vehicle to the division that contains the
960 following:

961 (I) the make and model of the vehicle requested, including acceptable alternate vehicle

962 makes and models as applicable;

963 (II) the reasons justifying the need for a nonstandard vehicle size or type;

964 (III) the date of the request; and

965 (IV) the name and signature of the person making the request; and

966 (B) obtain the division's written approval for the nonstandard vehicle.

967 (6) (a) (i) Each state agency and each higher education institution shall subscribe to the
968 fuel dispensing services provided by the division.

969 (ii) A state agency may not provide or subscribe to any other fuel dispensing services,
970 systems, or products other than those provided by the division.

971 (b) Counties, municipalities, school districts, local districts, special service districts,
972 and federal agencies may subscribe to the fuel dispensing services provided by the division if:

973 (i) the county or municipal legislative body, the school district, or the local district or
974 special service district board recommends that the county, municipality, school district, local
975 district, or special service district subscribe to the fuel dispensing services of the division; and

976 (ii) the division approves participation in the program by that government unit.

977 (7) The director, with the approval of the executive director, may delegate functions to
978 institutions of higher education, by contract or other means authorized by law, if:

979 (a) the agency or institution of higher education has requested the authority;

980 (b) in the judgment of the director, the state agency or institution has the necessary
981 resources and skills to perform the delegated responsibilities; and

982 (c) the delegation of authority is in the best interest of the state and the function
983 delegated is accomplished according to provisions contained in law or rule.

984 Section 21. Section **63A-9-501** is amended to read:

985 **63A-9-501. Complaints about misuse or illegal operation of state vehicles --**

986 **Disposition.**

987 (1) The division shall refer complaints from the public about misuse or illegal
988 operation of state vehicles to the agency that is the owner or lessor of the vehicle.

989 (2) Each agency head or ~~his~~ the agency head's designee shall investigate all
990 complaints about misuse or illegal operation of state vehicles and shall discipline each
991 employee that is found to have misused or illegally operated a vehicle by following the
992 procedures ~~set forth~~ described in the rules ~~adopted~~ made by the Division of Human

Resource Management, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as authorized by Section 63A-17-306.

(3) (a) Each agency shall report the findings of each investigation conducted as well as any action taken as a result of the investigation to the directors of the Divisions of Fleet Operations and Risk Management.

(b) Misuse or illegal operation of state vehicles may result in suspension or revocation of state vehicle driving privileges as governed in rule.

Section 22. Section **63A-12-101** is amended to read:

63A-12-101. Division of Archives and Records Service created -- Duties.

(1) There is created the Division of Archives and Records Service within the department.

(2) The state archives shall:

(a) administer the state's archives and records management programs, including storage of records, central [~~microphotography~~] reformatting programs, and quality control;

(b) apply fair, efficient, and economical management methods to the collection, creation, use, maintenance, retention, preservation, disclosure, and disposal of records and documents;

(c) establish standards, procedures, and techniques for the effective management and physical care of records;

(d) conduct surveys of office operations and recommend improvements in current records management practices, including the use of space, equipment, automation, and supplies used in creating, maintaining, storing, and servicing records;

(e) establish standards for the preparation of schedules providing for the retention of records of continuing value and for the prompt and orderly disposal of state records no longer possessing sufficient administrative, historical, legal, or fiscal value to warrant further retention;

(f) establish, maintain, and operate centralized [~~microphotography~~] reformatting lab facilities and quality control for the state;

(g) provide staff and support services to the Records Management Committee created in Section 63A-12-112 and the State Records Committee created in Section 63G-2-501;

(h) develop training programs to assist records officers and other interested officers and

1024 employees of governmental entities to administer this chapter and Title 63G, Chapter 2,
1025 Government Records Access and Management Act;

1026 (i) provide access to public records deposited in the archives;

1027 (j) administer and maintain the Utah Public Notice Website established under Section
1028 63A-16-601;

1029 (k) provide assistance to any governmental entity in administering this chapter and
1030 Title 63G, Chapter 2, Government Records Access and Management Act;

1031 (l) prepare forms for use by all governmental entities for a person requesting access to
1032 a record; and

1033 (m) if the department operates the Division of Archives and Records Service as an
1034 internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate
1035 Committee established in Section 63A-1-114:

1036 (i) the proposed rate ~~[and fee]~~ schedule as required by Section 63A-1-114; and

1037 (ii) other information or analysis requested by the Rate Committee.

1038 (3) The state archives may:

1039 (a) establish a report and directives management program; and

1040 (b) establish a forms management program.

1041 (4) The executive director may direct the state archives to administer other functions or
1042 services consistent with this chapter and Title 63G, Chapter 2, Government Records Access
1043 and Management Act.

1044 Section 23. Section **63A-12-104** is amended to read:

1045 **63A-12-104. Rulemaking authority.**

1046 (1) The ~~[executive director of the department, with the recommendation of the]~~ state
1047 archivist, may make rules ~~[as provided by]~~, in accordance with Title 63G, Chapter 3, Utah
1048 Administrative Rulemaking Act, to implement provisions of this chapter and Title 63G,
1049 Chapter 2, Government Records Access and Management Act, dealing with procedures for the
1050 collection, storage, designation, classification, access, mediation for records access, and
1051 management of records.

1052 (2) A governmental entity that includes divisions, boards, departments, committees,
1053 commissions, or other subparts that fall within the definition of a governmental entity under
1054 this chapter, may, by rule, specify at which level the requirements specified in this chapter shall

1055 be undertaken.

1056 Section 24. Section **63A-16-102** is amended to read:

1057 **63A-16-102. Definitions.**

1058 As used in this chapter:

1059 (1) "Chief information officer" means the chief information officer appointed under
1060 Section 63A-16-201.

1061 (2) "Data center" means a centralized repository for the storage, management, and
1062 dissemination of data.

1063 (3) "Division" means the Division of Technology Services.

1064 (4) "Enterprise architecture" means:

1065 (a) information technology assets and functions that can be applied across state
1066 government~~[, and]~~, including:

1067 (i) mainframes, servers, desktop devices, peripherals, and other computing devices;

1068 (ii) networks;

1069 (iii) enterprise-wide applications;

1070 (iv) maintenance and help desk functions for common hardware and applications;

1071 (v) standards for other computing devices, operating systems, common applications,
1072 and software; and

1073 (vi) master contracts that are available for use by agencies for various systems,

1074 including operating systems, databases, enterprise resource planning and customer relationship

1075 management software, application development services, and enterprise integration; and

1076 (b) support for information technology that can be applied across state government,
1077 including:

1078 (i) technical support;

1079 (ii) master software licenses; and

1080 (iii) hardware and software standards.

1081 (5) (a) "Executive branch agency" means an agency or administrative subunit of state
1082 government.

1083 (b) "Executive branch agency" does not include:

1084 (i) the legislative branch;

1085 (ii) the judicial branch;

1086 (iii) the State Board of Education;
1087 (iv) the Utah Board of Higher Education;
1088 (v) institutions of higher education;
1089 (vi) independent entities as defined in Section 63E-1-102; or
1090 (vii) the following elective constitutional offices of the executive department:
1091 (A) the state auditor;
1092 (B) the state treasurer; and
1093 (C) the attorney general.
1094 (6) "Executive branch strategic plan" means the executive branch strategic plan created
1095 under Section 63A-16-202.
1096 (7) "Individual with a disability" means an individual with a condition that meets the
1097 definition of "disability" in 42 U.S.C. Sec. 12102.
1098 (8) "Information technology" means all computerized and auxiliary automated
1099 information handling, including:
1100 (a) systems design and analysis;
1101 (b) acquisition, storage, and conversion of data;
1102 (c) computer programming;
1103 (d) information storage and retrieval;
1104 (e) voice, video, and data communications;
1105 (f) requisite systems controls;
1106 (g) simulation; and
1107 (h) all related interactions between people and machines.
1108 (9) "State information architecture" means a logically consistent set of principles,
1109 policies, and standards that guide the engineering of state government's information technology
1110 and infrastructure in a way that ensures alignment with state government's business and service
1111 needs.
1112 Section 25. Section **63A-16-104** is amended to read:
1113 **63A-16-104. Duties of division.**
1114 The division shall:
1115 (1) lead state executive branch agency efforts to establish and reengineer the state's
1116 information technology architecture with the goal of coordinating central and individual agency

1117 information technology in a manner that:

1118 (a) ensures compliance with the executive branch agency strategic plan; and

1119 (b) ensures that cost-effective, efficient information and communication systems and

1120 resources are being used by agencies to:

1121 (i) reduce data, hardware, and software redundancy;

1122 (ii) improve system interoperability and data accessibility between agencies; and

1123 (iii) meet the agency's and user's business and service needs;

1124 (2) coordinate an executive branch strategic plan for all agencies;

1125 (3) develop and implement processes to replicate information technology best practices

1126 and standards throughout the executive branch;

1127 (4) at least once every odd-numbered year:

1128 (a) evaluate the adequacy of the division's and the executive branch agencies' data and

1129 information technology system security standards through an independent third party

1130 assessment; and

1131 (b) communicate the results of the independent third party assessment to the

1132 appropriate executive branch agencies and to the president of the Senate and the speaker of the

1133 House of Representatives;

1134 (5) oversee the expanded use and implementation of project and contract management

1135 principles as they relate to information technology projects within the executive branch;

1136 (6) serve as general contractor between the state's information technology users and

1137 private sector providers of information technology products and services;

1138 (7) work toward building stronger partnering relationships with providers;

1139 (8) develop service level agreements with executive branch departments and agencies

1140 to ensure quality products and services are delivered on schedule and within budget;

1141 (9) develop standards for application development including a standard methodology

1142 and cost-benefit analysis that all agencies shall utilize for application development activities;

1143 (10) determine and implement statewide efforts to standardize data elements;

1144 (11) coordinate with executive branch agencies to provide basic website standards for

1145 agencies that address common design standards and navigation standards, including:

1146 (a) accessibility for individuals with disabilities in accordance with:

1147 (i) the standards of 29 U.S.C. Sec. 794d; and

1148 (ii) Section 63A-16-209;

1149 (b) consistency with standardized government security standards;

1150 (c) designing around user needs with data-driven analysis influencing management and

1151 development decisions, using qualitative and quantitative data to determine user goals, needs,

1152 and behaviors, and continual testing of the website, web-based form, web-based application, or

1153 digital service to ensure that user needs are addressed;

1154 (d) providing users of the website, web-based form, web-based application, or digital

1155 service with the option for a more customized digital experience that allows users to complete

1156 digital transactions in an efficient and accurate manner; and

1157 (e) full functionality and usability on common mobile devices;

1158 (12) consider, when making a purchase for an information system, cloud computing

1159 options, including any security benefits, privacy, data retention risks, and cost savings

1160 associated with cloud computing options;

1161 (13) develop systems and methodologies to review, evaluate, and prioritize existing

1162 information technology projects within the executive branch and report to the governor and the

1163 ~~[Public Utilities, Energy, and Technology]~~ Government Operations Interim Committee in

1164 accordance with Section 63A-16-201 on a semiannual basis regarding the status of information

1165 technology projects;

1166 (14) assist the Governor's Office of Planning and Budget with the development of

1167 information technology budgets for agencies; ~~and~~

1168 (15) ensure that any training or certification required of a public official or public

1169 employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter

1170 22, State Training and Certification Requirements, if the training or certification is required:

1171 (a) under this chapter;

1172 (b) by the department; or

1173 (c) by the division[-];

1174 (16) provide support to executive branch agencies for the information technology

1175 assets and functions that are unique to the agency and are mission critical functions of the

1176 agency;

1177 (17) provide in-house information technology staff support to executive branch

1178 agencies;

- 1179 (18) establish a committee composed of agency user groups to coordinate division
1180 services with agency needs;
- 1181 (19) assist executive branch agencies in complying with the requirements of any rule
1182 made by the chief information officer;
- 1183 (20) develop and implement an effective enterprise architecture governance model for
1184 the executive branch;
- 1185 (21) provide oversight of information technology projects that impact statewide
1186 information technology services, assets, or functions of state government to:
- 1187 (a) control costs;
1188 (b) ensure business value to a project;
1189 (c) maximize resources;
1190 (d) ensure the uniform application of best practices; and
1191 (e) avoid duplication of resources;
- 1192 (22) develop a method of accountability to agencies for services provided by the
1193 department through service agreements with the agencies;
- 1194 (23) serve as a project manager for enterprise architecture, including management of
1195 applications, standards, and procurement of enterprise architecture;
- 1196 (24) coordinate the development and implementation of advanced state
1197 telecommunication systems;
- 1198 (25) provide services, including technical assistance:
1199 (a) to executive branch agencies and subscribers to the services; and
1200 (b) related to information technology or telecommunications;
- 1201 (26) establish telecommunication system specifications and standards for use by:
1202 (a) one or more executive branch agencies; or
1203 (b) one or more entities that subscribe to the telecommunication systems in accordance
1204 with Section 63A-16-303;
- 1205 (27) coordinate state telecommunication planning, in cooperation with:
1206 (a) state telecommunication users;
1207 (b) executive branch agencies; and
1208 (c) other subscribers to the state's telecommunication systems;
- 1209 (28) cooperate with the federal government, other state entities, counties, and

1210 municipalities in the development, implementation, and maintenance of:
1211 (a) (i) governmental information technology; or
1212 (ii) governmental telecommunication systems; and
1213 (b) (i) as part of a cooperative organization; or
1214 (ii) through means other than a cooperative organization;
1215 (29) establish, operate, manage, and maintain:
1216 (a) one or more state data centers; and
1217 (b) one or more regional computer centers;
1218 (30) design, implement, and manage all state-owned, leased, or rented land, mobile, or
1219 radio telecommunication systems that are used in the delivery of services for state government
1220 or the state's political subdivisions;
1221 (31) in accordance with the executive branch strategic plan, implement minimum
1222 standards to be used by the division for purposes of compatibility of procedures, programming
1223 languages, codes, and media that facilitate the exchange of information within and among
1224 telecommunication systems;
1225 (32) establish standards for the information technology needs of a collection of
1226 executive branch agencies or programs that share common characteristics relative to the types
1227 of stakeholders the agencies or programs serve, including:
1228 (a) project management;
1229 (b) application development; and
1230 (c) procurement;
1231 (33) provide oversight of information technology standards that impact multiple
1232 executive branch agency information technology services, assets, or functions to:
1233 (a) control costs;
1234 (b) ensure business value to a project;
1235 (c) maximize resources;
1236 (d) ensure the uniform application of best practices; and
1237 (e) avoid duplication of resources; and
1238 (34) establish a system of accountability to user agencies through the use of service
1239 agreements.

1240 Section 26. Section **63A-16-105** is amended to read:

1241 **63A-16-105. Director -- Authority.**

1242 (1) The executive director shall, with the approval of the governor, appoint the
1243 director.

1244 (2) The director:

1245 (a) shall exercise all powers given to, and perform all duties imposed on, the division;

1246 (b) has administrative jurisdiction over the division and each office within the division;

1247 (c) may make changes in division personnel and service functions under the director's
1248 administrative jurisdiction; and

1249 (d) may authorize a designee to perform appropriate responsibilities.

1250 (3) The director may, to facilitate division management, establish offices and bureaus
1251 to perform division functions.

1252 (4) (a) The director may hire employees in the division and offices of the division as
1253 permitted by division resources.

1254 (b) Except as provided in Subsection (5), each employee of the division is exempt from
1255 career service or classified service status as provided in Section 63A-17-301.

1256 (5) (a) ~~An~~ Unless the employee voluntarily converted to an exempt position described
1257 in Section 63A-17-301, an employee of an executive branch agency who was a career service
1258 employee as of July 1, 2005, who was transferred to the division at the time it was newly
1259 created as the Department of Technology Services continues in the employee's career service
1260 status during the employee's service to the division if the duties of the position in the division
1261 are substantially similar to those in the employee's previous position.

1262 (b) A career service employee transferred under the provisions of Subsection (5)(a),
1263 whose duties or responsibilities subsequently change, may not be converted to exempt status
1264 without the review process required by Subsection 63A-17-301(3).

1265 Section 27. Section **63A-16-201** is amended to read:

1266 **63A-16-201. Chief information officer -- Appointment -- Powers -- Reporting.**

1267 (1) The director of the division shall serve as the state's chief information officer.

1268 (2) The chief information officer shall:

1269 (a) advise the governor on information technology policy; and

1270 (b) perform those duties given the chief information officer by statute.

1271 (3) (a) The chief information officer shall report annually to:

1272 (i) the governor; and
1273 (ii) the [~~Public Utilities, Energy, and Technology~~] Government Operations Interim
1274 Committee.

1275 (b) The report required under Subsection (3)(a) shall:

1276 (i) summarize the state's current and projected use of information technology;

1277 (ii) summarize the executive branch strategic plan including a description of major
1278 changes in the executive branch strategic plan;

1279 (iii) provide a brief description of each state agency's information technology plan;

1280 (iv) include the status of information technology projects described in Subsection
1281 63A-16-104(11);

1282 (v) include the performance report described in Section 63A-16-211; and

1283 (vi) include the expenditure of the funds provided for electronic technology,
1284 equipment, and hardware.

1285 Section 28. Section **63A-16-202** is amended to read:

1286 **63A-16-202. Executive branch information technology strategic plan.**

1287 (1) In accordance with this section, the chief information officer shall prepare an
1288 executive branch information technology strategic plan:

1289 (a) that complies with this chapter; and

1290 (b) that includes:

1291 (i) a strategic plan for the:

1292 (A) interchange of information related to information technology between executive
1293 branch agencies;

1294 (B) coordination between executive branch agencies in the development and
1295 maintenance of information technology and information systems, including the coordination of
1296 agency information technology plans described in Section 63A-16-203; and

1297 (C) protection of the privacy of individuals who use state information technology or
1298 information systems, including the implementation of industry best practices for data and
1299 system security;

1300 (ii) priorities for the development and implementation of information technology or
1301 information systems including priorities determined on the basis of:

1302 (A) the importance of the information technology or information system; and

1303 (B) the time sequencing of the information technology or information system; and
1304 (iii) maximizing the use of existing state information technology resources.

1305 (2) In the development of the executive branch strategic plan, the chief information
1306 officer shall consult with all cabinet level officials.

1307 (3) (a) Unless withdrawn by the chief information officer or the governor in accordance
1308 with Subsection (3)(b), the executive branch strategic plan takes effect 30 days after the day on
1309 which the executive branch strategic plan is submitted to:

1310 (i) the governor; and

1311 (ii) the [~~Public Utilities, Energy, and Technology~~] Government Operations Interim
1312 Committee.

1313 (b) The chief information officer or the governor may withdraw the executive branch
1314 strategic plan submitted under Subsection (3)(a) if the governor or chief information officer
1315 determines that the executive branch strategic plan:

1316 (i) should be modified; or

1317 (ii) for any other reason should not take effect.

1318 (c) The [~~Public Utilities, Energy, and Technology~~] Government Operations Interim
1319 Committee may make recommendations to the governor and to the chief information officer if
1320 the commission determines that the executive branch strategic plan should be modified or for
1321 any other reason should not take effect.

1322 (d) Modifications adopted by the chief information officer shall be resubmitted to the
1323 governor and the [~~Public Utilities, Energy, and Technology~~] Government Operations Interim
1324 Committee for their review or approval as provided in Subsections (3)(a) and (b).

1325 (4) (a) The chief information officer shall annually, on or before January 1, modify the
1326 executive branch information technology strategic plan to incorporate security standards that:

1327 (i) are identified as industry best practices in accordance with Subsections
1328 63A-16-104(3) and (4); and

1329 (ii) can be implemented within the budget of the department or the executive branch
1330 agencies.

1331 (b) The chief information officer shall inform the speaker of the House of
1332 Representatives and the president of the Senate on or before January 1 of each year if best
1333 practices identified in Subsection (4)(a)(i) are not adopted due to budget issues considered

under Subsection (4)(a)(ii).

(5) Each executive branch agency shall implement the executive branch strategic plan by adopting an agency information technology plan in accordance with Section 63A-16-203.

Section 29. Section **63A-16-203** is amended to read:

63A-16-203. Agency information technology plans.

(1) (a) On or before July 1 each year, each executive branch agency shall submit an agency information technology plan to the chief information officer at the department level, unless the governor or the chief information officer request an information technology plan be submitted by a subunit of a department, or by an executive branch agency other than a department.

(b) The information technology plans required by this section shall be in the form and level of detail required by the chief information officer, by administrative rule ~~[adopted in accordance with]~~ under Section 63A-16-205, and shall include, at least:

(i) the information technology objectives of the agency;

(ii) any performance measures used by the agency for implementing the agency's information technology objectives;

(iii) any planned expenditures related to information technology;

(iv) the agency's need for appropriations for information technology;

(v) how the agency's development of information technology coordinates with other state and local governmental entities;

(vi) any efforts the agency has taken to develop public and private partnerships to accomplish the information technology objectives of the agency;

(vii) the efforts the executive branch agency has taken to conduct transactions electronically in compliance with Section 46-4-503; and

(viii) the executive branch agency's plan for the timing and method of verifying the department's security standards, if an agency intends to verify the department's security standards for the data that the agency maintains or transmits through the department's servers.

(2) (a) Except as provided in Subsection (2)(b), an agency information technology plan described in Subsection (1) shall comply with the executive branch strategic plan established in accordance with Section 63A-16-202.

(b) If the executive branch agency submitting the agency information technology plan

justifies the need to depart from the executive branch strategic plan, an agency information technology plan may depart from the executive branch strategic plan to the extent approved by the chief information officer.

(3) The chief information officer shall review each agency plan to determine:

(a) (i) whether the agency plan complies with the executive branch strategic plan and state information architecture; or

(ii) to the extent that the agency plan does not comply with the executive branch strategic plan or state information architecture, whether the executive branch entity is justified in departing from the executive branch strategic plan, or state information architecture; and

(b) whether the agency plan meets the information technology and other needs of:

(i) the executive branch agency submitting the plan; and

(ii) the state.

(4) After the chief information officer conducts the review described in Subsection (3) of an agency information technology plan, the chief information officer may:

(a) approve the agency information technology plan;

(b) disapprove the agency information technology plan; or

(c) recommend modifications to the agency information technology plan.

(5) An executive branch agency or the department may not submit a request for appropriation related to information technology or an information technology system to the governor in accordance with Section 63J-1-201 until after the executive branch agency's information technology plan is approved by the chief information officer.

Section 30. Section **63A-16-205** is amended to read:

63A-16-205. Rulemaking -- Policies.

(1) (a) Except as provided in Subsection (2), the chief information officer shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) provide standards that impose requirements on executive branch agencies that:

(A) are related to the security of the statewide area network; and

(B) establish standards for when an agency must obtain approval before obtaining items listed in Subsection 63A-16-204(1);

(ii) specify the detail and format required in an agency information technology plan submitted in accordance with Section 63A-16-203;

1396 (iii) provide for standards related to the privacy policies of websites operated by or on
1397 behalf of an executive branch agency;

1398 (iv) provide for the acquisition, licensing, and sale of computer software;

1399 (v) specify the requirements for the project plan and business case analysis required by
1400 Section 63A-16-204;

1401 (vi) provide for project oversight of agency technology projects when required by
1402 Section 63A-16-204;

1403 (vii) establish, in accordance with Subsection 63A-16-204(2), the implementation of
1404 the needs assessment for information technology purchases;

1405 (viii) establish telecommunications standards and specifications in accordance with
1406 ~~[Section 63A-16-403]~~ Subsection 63A-16-104(26); and

1407 (ix) establish standards for accessibility of information technology by individuals with
1408 disabilities in accordance with Section 63A-16-209.

1409 (b) The rulemaking authority granted by this Subsection (1) is in addition to any other
1410 rulemaking authority granted under this chapter.

1411 (2) (a) Notwithstanding Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1412 and subject to Subsection (2)(b), the chief information officer may adopt a policy that outlines
1413 procedures to be followed by the chief information officer in facilitating the implementation of
1414 this title by executive branch agencies if the policy:

1415 (i) is consistent with the executive branch strategic plan; and

1416 (ii) is not required to be made by rule under Subsection (1) or Section 63G-3-201.

1417 (b) (i) A policy adopted by the chief information officer under Subsection (2)(a) may
1418 not take effect until 30 days after the day on which the chief information officer submits the
1419 policy to:

1420 (A) the governor; and

1421 (B) all cabinet level officials.

1422 (ii) During the 30-day period described in Subsection (2)(b)(i), cabinet level officials
1423 may review and comment on a policy submitted under Subsection (2)(b)(i).

1424 (3) (a) Notwithstanding Subsection (1) or (2) or Title 63G, Chapter 3, Utah
1425 Administrative Rulemaking Act, without following the procedures of Subsection (1) or (2), the
1426 chief information officer may adopt a security procedure to be followed by executive branch

1427 agencies to protect the statewide area network if:

1428 (i) broad communication of the security procedure would create a significant potential
1429 for increasing the vulnerability of the statewide area network to breach or attack; and

1430 (ii) after consultation with the chief information officer, the governor agrees that broad
1431 communication of the security procedure would create a significant potential increase in the
1432 vulnerability of the statewide area network to breach or attack.

1433 (b) A security procedure described in Subsection (3)(a) is classified as a protected
1434 record under Title 63G, Chapter 2, Government Records Access and Management Act.

1435 (c) The chief information officer shall provide a copy of the security procedure as a
1436 protected record to:

1437 (i) the chief justice of the Utah Supreme Court for the judicial branch;

1438 (ii) the speaker of the House of Representatives and the president of the Senate for the
1439 legislative branch;

1440 (iii) the chair of the Utah Board of Higher Education; and

1441 (iv) the chair of the State Board of Education.

1442 Section 31. Section **63A-16-208** is amended to read:

1443 **63A-16-208. Delegation of division staff to executive branch agencies --**

1444 **Prohibition against executive branch agency information technology staff.**

1445 (1) (a) The chief information officer shall assign division staff to serve an agency
1446 in-house if the chief information officer and the executive branch agency director jointly
1447 determine it is appropriate to provide information technology services to:

1448 (i) the agency's unique mission-critical functions and applications;

1449 (ii) the agency's participation in and use of statewide enterprise architecture; and

1450 (iii) the agency's use of coordinated technology services with other agencies that share
1451 similar characteristics with the agency.

1452 (b) (i) An agency may request the chief information officer to assign in-house staff
1453 support from the division.

1454 (ii) The chief information officer shall respond to the agency's request for in-house
1455 staff support in accordance with Subsection (1)(a).

1456 (c) The division shall enter into service agreements with an agency when division staff
1457 is assigned in-house to the agency under the provisions of this section.

(d) An agency that receives in-house staff support assigned from the division under the provision of this section is responsible for paying the rates charged by the division for that staff as established under Section 63A-16-301.

(2) (a) An executive branch agency may not create a full-time equivalent position or part-time position, or request an appropriation to fund a full-time equivalent position or part-time position under the provisions of Section 63J-1-201 for the purpose of providing information technology services to the agency unless:

(i) the chief information officer has approved a delegation under Section 63A-16-207; and

(ii) the division conducts an audit ~~[under]~~ in relation to Section ~~[63A-16-213]~~ 63A-16-102 and finds that the delegation of information technology services to the agency meets the requirements of Section 63A-16-207.

(b) The prohibition against a request for appropriation under Subsection (2)(a) does not apply to a request for appropriation needed to pay rates imposed under Subsection (1)(d).

Section 32. Section **63A-16-211** is amended to read:

63A-16-211. Report to the Legislature.

The division shall, in accordance with Section 63F-16-201, before November 1 each year, report to the ~~[Public Utilities, Energy, and Technology]~~ Government Operations Interim Committee on:

(1) performance measures that the division uses to assess the division's effectiveness in performing the division's duties under this part; and

(2) the division's performance, evaluated in accordance with the performance measures described in Subsection (1).

Section 33. Section **63A-16-301** is amended to read:

63A-16-301. Cost based services -- Rates -- Submission to rate committee.

(1) The chief information officer shall:

(a) at the lowest practical cost, manage the delivery of efficient and cost-effective information technology and telecommunication services for:

(i) all executive branch agencies; and

(ii) entities that subscribe to the services in accordance with Section 63A-16-303; and

(b) provide priority service to public safety agencies.

(2) (a) In accordance with this Subsection (2), the chief information officer shall prescribe a schedule of ~~[fees]~~ rates for all services rendered by the division to:

- (i) an executive branch entity; or
- (ii) an entity that subscribes to services rendered by the division in accordance with Section 63A-16-303.

(b) Each ~~[fee]~~ rate included in the schedule of ~~[fees]~~ rates required by Subsection (2)(a):

- (i) shall be equitable;
- (ii) should be based upon a zero based, full cost accounting of activities necessary to provide each service for which a ~~[fee]~~ rate is established; and
- (iii) for each service multiplied by the projected consumption of the service recovers no more or less than the full cost of each service.

(c) Before charging a ~~[fee]~~ rate for its services to an executive branch agency or to a subscriber of services other than an executive branch agency, the chief information officer shall:

- (i) submit the proposed rates~~[-fees,]~~ and cost analysis to the Rate Committee established in Section 63A-1-114; and

- (ii) obtain the approval of the Legislature as required by Section 63J-1-410.

(d) The chief information officer shall periodically conduct a market analysis of proposed rates ~~[and fees]~~, which analysis shall include a comparison of the division's rates with the ~~[fees]~~ rates of other public or private sector providers where comparable services and rates are reasonably available.

Section 34. Section **63A-16-501** is amended to read:

63A-16-501. Definitions.

As used in this part:

(1) "Center" means the Utah Geospatial Resource Center created in Section 63A-16-505.

(2) "Database" means the State Geographic Information Database created in Section 63A-16-506.

(3) "Geographic Information System" or "GIS" means a computer driven data integration and map production system that interrelates disparate layers of data to specific

1520 geographic locations.

1521 ~~[(4)] "Office" means the Office of Integrated Technology, created in Section~~
1522 ~~63A-16-502.]~~

1523 ~~[(5)]~~ (4) "State Geographic Information Database" means the database created in
1524 Section 63A-16-506.

1525 ~~[(6)]~~ (5) "Statewide Global Positioning Reference Network" or "network" means the
1526 network created in Section 63A-16-508.

1527 Section 35. Section **63A-16-504** is amended to read:

1528 **63A-16-504. Information technology plan.**

1529 (1) In accordance with this section, the ~~[office]~~ division shall submit an information
1530 technology plan to the chief information officer.

1531 (2) The information technology plan submitted by the ~~[office]~~ division under this
1532 section shall include:

1533 (a) the information required by Section 63A-16-202;

1534 (b) a list of the services the ~~[office]~~ division offers or plans to offer; and

1535 (c) a description of the performance measures used by the ~~[office]~~ division to measure
1536 the quality of the services described in Subsection (2)(b).

1537 (3) (a) In submitting the information technology plan under this section, the ~~[office]~~
1538 division shall comply with Section 63A-16-203.

1539 (b) The information technology plan submitted by the ~~[office]~~ division under this
1540 section is subject to the approval of the chief information officer as provided in Section
1541 63A-16-203.

1542 Section 36. Section **63A-16-505** is amended to read:

1543 **63A-16-505. Utah Geospatial Resource Center.**

1544 (1) There is created the Utah Geospatial Resource Center as part of the ~~[office]~~
1545 division.

1546 (2) The center shall:

1547 (a) provide geographic information system services to state agencies under rules
1548 ~~[adopted in accordance with Section 63A-16-503]~~ made under Section 63A-16-104 and
1549 policies established by the office;

1550 (b) provide geographic information system services to federal government, local

1551 political subdivisions, and private persons under rules and policies established by the office;
1552 (c) manage the State Geographic Information Database; and
1553 (d) establish standard format, lineage, and other requirements for the database.
1554 (3) (a) There is created a position of surveyor within the center.
1555 (b) The surveyor under this Subsection (3) shall:
1556 (i) be licensed as a professional land surveyor under Title 58, Chapter 22, Professional
1557 Engineers and Professional Land Surveyors Licensing Act;
1558 (ii) provide technical support to the office of lieutenant governor in the lieutenant
1559 governor's evaluation under Section 67-1a-6.5 of a proposed boundary action, as defined in
1560 Section 17-23-20;
1561 (iii) as requested by a county surveyor, provide technical assistance to the county
1562 surveyor with respect to the county surveyor's responsibilities under Section 17-23-20;
1563 (iv) fulfill the duties described in Section 17-50-105, if engaged to do so as provided in
1564 that section;
1565 (v) assist the State Tax Commission in processing and quality assurance of boundary
1566 descriptions or maps into digital format for inclusion in the State Geographic Information
1567 Database;
1568 (vi) coordinate with county recorders and surveyors to create a statewide parcel layer in
1569 the State Geographic Information Database containing parcel boundary, parcel identifier, parcel
1570 address, owner type, and county recorder contact information; and
1571 (vii) facilitate and integrate the collection efforts of local government and federal
1572 agencies for data collection to densify and enhance the statewide Public Land Survey System
1573 reference network in the State Geographic Information Database.
1574 (4) The office may:
1575 (a) make rules and establish policies to govern the center and the center's operations;
1576 and
1577 (b) set fees for the services provided by the center.
1578 (5) The state may not sell information obtained from counties under Subsection
1579 (3)(b)(v).
1580 Section 37. Section **63A-16-701** is amended to read:
1581 **63A-16-701. Data Security Management Council -- Membership -- Duties.**

1582 (1) There is created the Data Security Management Council comprising eight members
1583 as follows:

1584 (a) the chief information officer appointed under Section 63A-16-201, or the chief
1585 information officer's designee;

1586 (b) one individual appointed by the governor;

1587 (c) one individual appointed by the speaker of the House of Representatives and the
1588 president of the Senate; and

1589 (d) the highest ranking information technology official, or the highest ranking
1590 information technology official's designee, from each of:

1591 (i) the Judicial Council;

1592 (ii) the Utah Board of Higher Education;

1593 (iii) the State Board of Education;

1594 (iv) the State Tax Commission; and

1595 (v) the Office of the Attorney General.

1596 (2) The council shall elect a chair of the council by majority vote.

1597 (3) (a) A majority of the members of the council constitutes a quorum.

1598 (b) Action by a majority of a quorum of the council constitutes an action of the council.

1599 (4) The Division of Technology Services shall provide staff to the council.

1600 (5) The council shall meet quarterly, or as often as necessary, to:

1601 (a) review existing state government data security policies;

1602 (b) assess ongoing risks to state government information technology;

1603 (c) create a method to notify state and local government entities of new risks;

1604 (d) coordinate data breach simulation exercises with state and local government
1605 entities; and

1606 (e) develop data security best practice recommendations for state government that
1607 include recommendations regarding:

1608 (i) hiring and training a chief information security officer for each government entity;

1609 (ii) continuous risk monitoring;

1610 (iii) password management;

1611 (iv) using the latest technology to identify and respond to vulnerabilities;

1612 (v) protecting data in new and old systems; and

(vi) best procurement practices.

(6) A member who is not a member of the Legislature may not receive compensation or benefits for the member's service but may receive per diem and travel expenses as provided in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(7) The Data Security Management Council may, in accordance with Section 52-4-204, close to the public a meeting to discuss an item described in Subsection (5).

Section 38. Section **63A-16-702** is amended to read:

63A-16-702. Data Security Management Council -- Report to Legislature -- Recommendations.

(1) The council chair or the council chair's designee shall report annually no later than October 1 of each year to the [~~Public Utilities, Energy, and Technology~~] Government Operations Interim Committee.

(2) The council's annual report shall contain:

(a) a summary of topics the council studied during the year;

(b) best practice recommendations for state government; and

(c) recommendations for implementing the council's best practice recommendations.

Section 39. Section **63A-16-804** is amended to read:

63A-16-804. Report.

(1) The division shall report to the [~~Public Utilities, Energy, and Technology~~] Government Operations Interim Committee before November 30 of each year regarding:

(a) the progress the division has made in developing the single sign-on business portal and the single sign-on citizen portal and, once that development is complete, regarding the operation of the single sign-on business portal and the single sign-on citizen portal;

(b) the division's goals and plan for each of the next five years to fulfill the division's responsibilities described in this part; and

(c) whether the division recommends any change to the single sign-on fee being charged under Section 13-1-2.

(2) The [~~Public Utilities, Energy, and Technology~~] Government Operations Interim

1644 Committee shall annually:

1645 (a) review the single sign-on fee being charged under Section 13-1-2;

1646 (b) determine whether the revenue from the single sign-on fee is adequate for designing
1647 and developing and then, once developed, operating and maintaining the single sign-on web
1648 portal; and

1649 (c) make any recommendation to the Legislature that the committee considers
1650 appropriate concerning:

1651 (i) the single sign-on fee; and

1652 (ii) the development or operation of the single sign-on business portal and the single
1653 sign-on citizen portal.

1654 Section 40. Section **63A-16-903** is amended to read:

1655 **63A-16-903. Chief information officer review and approval of technology**
1656 **proposals.**

1657 (1) The chief information officer shall review and evaluate each technology proposal
1658 that the review board transmits to the chief information officer.

1659 (2) The chief information officer may approve and recommend that the division
1660 provide funding from legislative appropriations for a technology proposal if, after the chief
1661 information officer's review and evaluation of the technology proposal:

1662 (a) the chief information officer determines that there is a reasonably good likelihood
1663 that the technology proposal:

1664 (i) is capable of being implemented effectively; and

1665 (ii) will result in greater efficiency in a government process or a cost saving in the
1666 delivery of a government service, or both; and

1667 (b) the chief information officer receives approval from the governor's budget office
1668 for the technology proposal.

1669 (3) The chief information officer may:

1670 (a) prioritize multiple approved technology proposals based on their relative likelihood
1671 of achieving the goals described in Subsection (2); and

1672 (b) recommend funding based on the chief information officer's prioritization under
1673 Subsection (3)(a).

1674 (4) The division shall:

(a) track the implementation and success of a technology proposal approved by the chief information officer;

(b) evaluate the level of the technology proposal's implementation effectiveness and whether the implementation results in greater efficiency in a government process or a cost saving in the delivery of a government service, or both; and

(c) report the results of the division's tracking and evaluation:

(i) to the chief information officer, as frequently as the chief information officer requests; and

(ii) at least annually to the [~~Public Utilities, Energy, and Technology~~] Government Operations Interim Committee.

(5) The division may expend money appropriated by the Legislature to pay for expenses incurred by executive branch agencies in implementing a technology proposal that the chief information officer has approved.

Section 41. Section **63A-17-106** is amended to read:

63A-17-106. Responsibilities of the director.

(1) The director shall have full responsibility and accountability for the administration of the statewide human resource management system.

(2) Except as provided in Section 63A-17-201, an agency may not perform human resource functions without the consent of the director.

(3) Statewide human resource management rules [~~adopted~~] made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall take precedence if there is a conflict with agency rules, policies, or practices.

(4) The division may operate as an internal service fund agency in accordance with Section 63J-1-410 for the human resource functions the division provides.

(5) The director shall:

(a) develop, implement, and administer a statewide program of human resource management that will:

(i) aid in the efficient execution of public policy;

(ii) foster careers in public service for qualified employees; and

(iii) render assistance to state agencies in performing their missions;

(b) design and administer the state pay plan;

1706 (c) design and administer the state classification system and procedures for determining
1707 schedule assignments;

1708 (d) design and administer the state recruitment and selection system;

1709 (e) administer agency human resource practices and ensure compliance with federal
1710 law, state law, and state human resource rules, including equal employment opportunity;

1711 (f) consult with agencies on decisions concerning employee corrective action and
1712 discipline;

1713 (g) maintain central personnel records;

1714 (h) perform those functions necessary to implement this chapter unless otherwise
1715 assigned or prohibited;

1716 (i) perform duties assigned by the governor, executive director, or statute;

1717 (j) adopt rules for human resource management according to the procedures of Title
1718 63G, Chapter 3, Utah Administrative Rulemaking Act;

1719 (k) establish and maintain a management information system that will furnish the
1720 governor, the Legislature, and agencies with current information on authorized positions,
1721 payroll, and related matters concerning state human resources;

1722 (l) conduct research and planning activities to:

1723 (i) determine and prepare for future state human resource needs;

1724 (ii) develop methods for improving public human resource management; and

1725 (iii) propose needed policy changes to the governor;

1726 (m) study the character, causes, and extent of discrimination in state employment and
1727 develop plans for its elimination through programs consistent with federal and state laws
1728 governing equal employment opportunity in employment;

1729 (n) when requested by charter schools or counties, municipalities, and other political
1730 subdivisions of the state, provide technical service, training recommendations, or advice on
1731 human resource management at a charge determined by the director;

1732 (o) establish compensation policies and procedures for early voluntary retirement;

1733 (p) confer with the heads of other agencies about human resource policies and
1734 procedures;

1735 (q) submit an annual report to the executive director, the governor, and the Legislature;

1736 and

(r) assist with the development of a vacant position report required under Subsection 63J-1-201(2)(b)(vi).

(6) (a) After consultation with the executive director, the governor, and the heads of other agencies, the director shall establish and coordinate statewide training programs, including and subject to available funding, the development of manager and supervisor training.

(b) The programs developed under this Subsection (6) shall have application to more than one agency.

(c) The division may not establish training programs that train employees to perform highly specialized or technical jobs and tasks.

(d) The division shall ensure that any training program described in this Subsection (6) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(7) (a) (i) The division may collect fees for training as authorized by this Subsection (7).

(ii) Training funded from General Fund appropriations shall be treated as a separate program within the department budget.

(iii) All money received from fees under this section will be accounted for by the department as a separate user driven training program.

(iv) The user training program includes the costs of developing, procuring, and presenting training and development programs, and other associated costs for these programs.

(b) (i) Funds remaining at the end of the fiscal year in the user training program are nonlapsing.

(ii) Each year, as part of the appropriations process, the Legislature shall review the amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require the department to lapse a portion of the funds.

Section 42. Section **63A-17-107** is amended to read:

63A-17-107. Services and fees -- Submission to rate committee.

The director shall, before charging a [fee] rate for services provided by the division's internal service fund to an executive branch agency:

(1) submit the proposed rates[~~, fees,~~] and cost analysis to the rate committee established in Section 63A-1-114; and

(2) obtain the approval of the Legislature as required under Section 63J-1-410.

Section 43. Section **63A-17-110** is amended to read:

63A-17-110. State pay plans for DNR peace officers and wildland firefighters.

(1) As used in this section:

(a) "DNR peace officer" means an employee of the Department of Natural Resources who is designated as a peace officer by law.

(b) "Wildland firefighter" means an employee of the Division of Forestry, Fire, and State Lands who is:

(i) trained in firefighter techniques; and

(ii) assigned to a position of hazardous duty.

(2) The director shall:

(a) establish a specialized state pay plan for DNR peace officers and wildland firefighters that:

(i) meets the requirements of Section 63A-17-307;

(ii) distinguishes the salary range for each DNR peace officer and wildland firefighter classification;

(iii) includes for each DNR peace officer and wildland firefighter classification:

(A) the minimum qualifications; and

(B) any training requirements; and

(iv) provides standards for:

(A) performance evaluation; and

(B) promotion; and

(b) include, in the plan described in Subsection ~~[67-19-12(5)]~~ 63A-17-307(5), recommendations on funding and salary increases for DNR peace officers and wildland firefighters.

Section 44. Section **63A-17-202** is amended to read:

63A-17-202. Use of facilities -- Field office facilities cost allocation.

(1) An agency or a political subdivision of the state shall allow the division to use public buildings under the agency's ~~[of]~~ or the political subdivision's control, and furnish heat, light, and furniture, for any examination, training, hearing, or investigation authorized by this chapter.

(2) An agency or political subdivision that allows the division to use a public building under Subsection (1) shall pay the cost of the division's use of the public building.

Section 45. Section **63A-17-304** is amended to read:

63A-17-304. Promotion -- Reclassification -- Market adjustment.

(1) (a) If an employee is promoted or the employee's position is reclassified to a higher salary range maximum, the agency shall place the employee within the new range of the position.

(b) An agency may not set an employee's salary:

(i) higher than the maximum in the new salary range; ~~and~~ or

(ii) lower than the minimum in the new salary range of the position.

(c) Except for an employee described in Subsection 63A-17-301(1)(q), the agency shall grant a salary increase of at least 5% to an employee who is promoted.

(2) An agency shall adjust the salary range for an employee whose salary range is approved by the Legislature for a market comparability adjustment consistent with Subsection 63A-17-307(5)(b)(i):

(a) at the beginning of the next fiscal year; and

(b) consistent with appropriations made by the Legislature.

(3) Division-initiated revisions in the state classification system that result in consolidation or reduction of class titles or broadening of pay ranges:

(a) may not be regarded as a reclassification of the position or promotion of the employee; and

(b) are exempt from the provisions of Subsection (1).

Section 46. Section **63A-17-306** is amended to read:

63A-17-306. Dismissals and demotions -- Grounds -- Disciplinary action -- Procedure -- Reductions in force.

(1) A career service employee may be dismissed or demoted:

(a) to advance the good of the public service; or

(b) for just causes, including inefficiency, incompetency, failure to maintain skills or adequate performance levels, insubordination, disloyalty to the orders of a superior, misfeasance, malfeasance, or nonfeasance in office.

(2) An employee may not be dismissed because of race, sex, age, disability, national

origin, religion, political affiliation, or other nonmerit factor including the exercise of rights under this chapter.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director shall ~~establish~~ make rules governing the procedural and documentary requirements of disciplinary dismissals and demotions.

(4) If an agency head finds that a career service employee is charged with aggravated misconduct or that retention of a career service employee would endanger the peace and safety of others or pose a grave threat to the public interest, the employee may be suspended pending the administrative appeal to the department head as provided in Subsection (5).

(5) (a) A career service employee may not be demoted or dismissed unless the department head or designated representative has complied with this subsection.

(b) The department head or designated representative notifies the employee in writing of the reasons for the dismissal or demotion.

(c) The employee has no less than five working days to reply and have the reply considered by the department head.

(d) The employee has an opportunity to be heard by the department head or designated representative.

(e) Following the hearing, the employee may be dismissed or demoted if the department head finds adequate cause or reason.

(6) (a) Reductions in force required by inadequate funds, change of workload, or lack of work are governed by retention points established by the director.

(b) Under those circumstances:

(i) The agency head shall designate the category of work to be eliminated, subject to review by the director.

(ii) Temporary and probationary employees shall be separated before any career service employee.

(iii) (A) When more than one career service employee is affected, the employees shall be separated in the order of their retention points, the employee with the lowest points to be discharged first.

(B) Retention points for each career service employee shall be computed according to rules established by the director, allowing appropriate consideration for proficiency and

1861 seniority in state government, including any active duty military service fulfilled subsequent to
1862 original state appointment.

1863 (c) (i) A career service employee who is separated in a reduction in force under this
1864 section shall be given preferential consideration when applying for a career service position.

1865 (ii) Preferential consideration under Subsection (6)(c)(i) applies only until the former
1866 career service employee accepts a career service position.

1867 (iii) The director shall make rules in accordance with Title 63G, Chapter 3, Utah
1868 Administrative Rulemaking Act, concerning the manner of granting preferential consideration
1869 under Subsection (6)(c)(i).

1870 (d) (i) An employee separated due to a reduction in force may appeal to the department
1871 head for an administrative review.

1872 (ii) The notice of appeal must be submitted within 20 working days after the
1873 employee's receipt of written notification of separation.

1874 (iii) The employee may appeal the decision of the department head according to the
1875 grievance and appeals procedure of this chapter and Title 67, Chapter 19a, Grievance
1876 Procedures.

1877 Section 47. Section **63A-17-307** is amended to read:

1878 **63A-17-307. State pay plans -- Applicability of section -- Exemptions -- Duties of**
1879 **director.**

1880 (1) (a) This section, and the rules ~~[adopted]~~ made by the division ~~[to implement]~~ under
1881 this section, apply to each career and noncareer employee not specifically exempted under
1882 Subsection (2).

1883 (b) If not exempted under Subsection (2), an employee is considered to be in classified
1884 service.

1885 (2) The following employees are exempt from this section:

1886 (a) members of the Legislature and legislative employees;

1887 (b) members of the judiciary and judicial employees;

1888 (c) elected members of the executive branch and employees designated as schedule AC
1889 as provided under Subsection 63A-17-301(1)(c);

1890 (d) employees of the State Board of Education;

1891 (e) officers, faculty, and other employees of state institutions of higher education;

1892 (f) employees in a position that is specified by statute to be exempt from this
1893 Subsection (2);
1894 (g) employees in the Office of the Attorney General;
1895 (h) department heads and other persons appointed by the governor under statute;
1896 (i) schedule AS employees as provided under Subsection 63A-17-301(1)(m);
1897 (j) department deputy directors, division directors, and other employees designated as
1898 schedule AD as provided under Subsection 63A-17-301(1)(d);
1899 (k) employees that determine and execute policy designated as schedule AR as
1900 provided under Subsection 63A-17-301(1)(l);
1901 (l) teaching staff, educational interpreters, and educators designated as schedule AH as
1902 provided under Subsection 63A-17-301(1)(g);
1903 (m) temporary employees described in Subsection 63A-17-301(1)(q);
1904 (n) patients and inmates designated as schedule AU as provided under Subsection
1905 63A-17-301(1)(o) who are employed by state institutions; and
1906 (o) members of state and local boards and councils and other employees designated as
1907 schedule AQ as provided under Subsection 63A-17-301(1)(k).
1908 (3) (a) The director shall prepare, maintain, and revise a position classification plan for
1909 each employee position not exempted under Subsection (2) to provide equal pay for equal
1910 work.
1911 (b) Classification of positions shall be based upon similarity of duties performed and
1912 responsibilities assumed, so that the same job requirements and the same salary range may be
1913 applied equitably to each position in the same class.
1914 (c) The director shall allocate or reallocate the position of each employee in classified
1915 service to one of the classes in the classification plan.
1916 (d) (i) The division shall conduct periodic studies and interviews to provide that the
1917 classification plan remains reasonably current and reflects the duties and responsibilities
1918 assigned to and performed by employees.
1919 (ii) The director shall determine the need for studies and interviews after considering
1920 factors such as changes in duties and responsibilities of positions or agency reorganizations.
1921 (4) (a) With the approval of the executive director and the governor, the director shall
1922 develop and adopt pay plans for each position in classified service.

(b) The director shall design each pay plan to achieve, to the degree that funds permit, comparability of state salary ranges to the market using data obtained from private enterprise and other public employment for similar work.

(c) The director shall adhere to the following in developing each pay plan:

(i) each pay plan shall consist of sufficient salary ranges to:

(A) permit adequate salary differential among the various classes of positions in the classification plan; and

(B) reflect the normal growth and productivity potential of employees in that class.

(ii) The director shall issue rules for the administration of pay plans.

(d) The establishing of a salary range is a nondelegable activity and is not appealable under the grievance procedures of Part 6, Grievance Provisions, Title 67, Chapter 19a, Grievance Procedures, or otherwise.

(e) The director shall ~~[issue]~~ make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for:

(i) agency approved salary adjustments within approved salary ranges, including an administrative salary adjustment;

(ii) legislatively approved salary adjustments within approved salary ranges, including a merit increase, subject to Subsection (4)(f), or general increase; and

(iii) structure adjustments that modify salary ranges, including a cost of living adjustment or market comparability adjustment.

(f) A merit increase shall be granted on a uniform and consistent basis to each employee who receives a rating of "successful" or higher in an annual evaluation of the employee's productivity and performance.

(5) (a) On or before October 31 of each year, the director shall submit an annual compensation plan to the executive director and the governor for consideration in the executive budget.

(b) The plan described in Subsection (5)(a) may include recommendations, including:

(i) salary increases that generally affect employees, including a general increase or merit increase;

(ii) salary increases that address compensation issues unique to an agency or occupation;

1954 (iii) structure adjustments, including a cost of living adjustment or market
1955 comparability adjustment; or
1956 (iv) changes to employee benefits.

1957 (c) (i) (A) Subject to Subsection (5)(c)(i)(B) or (C), the director shall incorporate the
1958 results of a salary survey of a reasonable cross section of comparable positions in private and
1959 public employment in the state into the annual compensation plan.

1960 (B) The salary survey for a law enforcement officer, as defined in Section 53-13-103, a
1961 correctional officer, as defined in Section 53-13-104, or a dispatcher, as defined in Section
1962 53-6-102, shall at minimum include the three largest political subdivisions in the state that
1963 employ, respectively, comparable positions.

1964 (C) The salary survey for an examiner or supervisor described in Title 7, Chapter 1,
1965 Part 2, Department of Financial Institutions, shall at minimum include the Federal Deposit
1966 Insurance Corporation, Federal Reserve, and National Credit Union Administration.

1967 (ii) The director may cooperate with or participate in any survey conducted by other
1968 public and private employers.

1969 (iii) The director shall obtain information for the purpose of constructing the survey
1970 from the Division of Workforce Information and Payment Services and shall include employer
1971 name, number of persons employed by the employer, employer contact information and job
1972 titles, county code, and salary if available.

1973 (iv) The division shall acquire and protect the needed records in compliance with the
1974 provisions of Section 35A-4-312.

1975 (d) The director may incorporate any other relevant information in the plan described
1976 in Subsection (5)(a), including information on staff turnover, recruitment data, or external
1977 market trends.

1978 (e) The director shall:

1979 (i) establish criteria to assure the adequacy and accuracy of data used to make
1980 recommendations described in this Subsection (5); and

1981 (ii) when preparing recommendations use accepted methodologies and techniques
1982 similar to and consistent with those used in the private sector.

1983 (f) (i) Upon request and subject to Subsection (5)(f)(ii), the division shall make
1984 available foundational information used by the division or director in the drafting of a plan

1985 described in Subsection (5)(a), including:

1986 (A) demographic and labor market information;

1987 (B) information on employee turnover;

1988 (C) salary information;

1989 (D) information on recruitment; and

1990 (E) geographic data.

1991 (ii) The division may not provide under Subsection (5)(f)(i) information or other data

1992 that is proprietary or otherwise protected under the terms of a contract or by law.

1993 (g) The governor shall:

1994 (i) consider salary and structure adjustments recommended under Subsection (5)(b) in

1995 preparing the executive budget and shall recommend the method of distributing the

1996 adjustments;

1997 (ii) submit compensation recommendations to the Legislature; and

1998 (iii) support the recommendation with schedules indicating the cost to individual

1999 departments and the source of funds.

2000 (h) If funding is approved by the Legislature in a general appropriations act, the

2001 adjustments take effect on the July 1 following the enactment unless otherwise indicated.

2002 (6) (a) The director shall ~~[issue]~~ make rules, in accordance with Title 63G, Chapter 3,

2003 Utah Administrative Rulemaking Act, for the granting of incentive awards, including awards

2004 for cost saving actions, awards for commendable actions by an employee, or a market-based

2005 award to attract or retain employees.

2006 (b) An agency may not grant a market-based award unless the award is previously

2007 approved by the division.

2008 (c) In accordance with Subsection (6)(b), an agency requesting the division's approval

2009 of a market-based award shall submit a request and documentation, subject to Subsection

2010 (6)(d), to the division.

2011 (d) In the documentation required in Subsection (6)(c), the requesting agency shall

2012 identify for the division:

2013 (i) any benefit the market-based award would provide for the agency, including:

2014 (A) budgetary advantages; or

2015 (B) recruitment advantages;

2016 (ii) a mission critical need to attract or retain unique or hard to find skills in the market;
2017 or

2018 (iii) any other advantage the agency would gain through the utilization of a
2019 market-based award.

2020 (7) (a) The director shall regularly evaluate the total compensation program of state
2021 employees in the classified service.

2022 (b) The division shall determine if employee benefits are comparable to those offered
2023 by other private and public employers using information from:

2024 (i) a study conducted by a third-party consultant; or

2025 (ii) the most recent edition of a nationally recognized benefits survey.

2026 Section 48. Section **63A-17-806** is amended to read:

2027 **63A-17-806. Definitions -- Infant at Work Pilot Program -- Administration --**
2028 **Report.**

2029 (1) As used in this section:

2030 (a) "Eligible employee" means an employee who has been employed by the
2031 Department of Health for a minimum of:

2032 (i) 12 consecutive months; and

2033 (ii) 1,250 hours, excluding paid time off during the 12-month period immediately
2034 preceding the day on which the employee applies for participation in the program.

2035 (b) "Infant" means a baby that is at least six weeks of age and no more than six months
2036 of age.

2037 (c) "Parent" means:

2038 (i) a biological or adoptive parent of an infant; or

2039 (ii) an individual who has an infant placed in the individual's foster care by the
2040 Division of Child and Family Services.

2041 (d) "Program" means the Infant at Work Pilot Program established in this section.

2042 (2) There is created the Infant at Work Pilot Program for eligible employees.

2043 (3) The program shall:

2044 (a) allow an eligible employee to bring the eligible employee's infant to work subject to
2045 the provisions of this section;

2046 (b) be administered by the division; and

(c) be implemented for a minimum of one year.

(4) The division shall establish an application process for eligible employees of the Department of Health to apply to the program that includes:

(a) a process for evaluating whether an eligible employee's work environment is appropriate for an infant;

(b) guidelines for infant health and safety; and

(c) guidelines regarding an eligible employee's initial and ongoing participation in the program.

(5) If the division approves the eligible employee for participation in the program, the eligible employee shall have the sole responsibility for the care and safety of the infant at the workplace.

(6) The division may not require the Department of Health to designate or set aside space for an eligible employee's infant other than the eligible employee's existing work space.

(7) The division, in consultation with the Department of Health, shall ~~adopt~~ make rules that the department determines necessary to establish the program in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) On or before June 30, 2022, the division, in consultation with the Department of Health, shall submit a written report to the Business and Labor Interim Committee that describes the efficacy of the program, including any recommendations for additional legislative action.

Section 49. Section **63A-17-1004** is amended to read:

63A-17-1004. Drug testing of state employees.

(1) Except as provided in Subsection (2), when there is reasonable suspicion that an employee is using a controlled substance or alcohol unlawfully during work hours, an employee may be required to submit to medically accepted testing procedures for a determination of whether the employee is using a controlled substance or alcohol in violation of this part.

(2) In highly sensitive positions, as identified in department class specifications, random drug testing of employees may be conducted by an agency in accordance with the rules of the director.

(3) All drug or alcohol testing shall be:

(a) conducted by a federally certified and licensed physician, a federally certified and licensed medical clinic, or testing facility federally certified and licensed to conduct medically accepted drug testing; and

(b) conducted in accordance with the rules of the director made under Section 63A-17-1002[~~;~~ and].

~~[(c) kept confidential in accordance with the rules of the director made in accordance with Section 63A-17-1002.]~~

(4) A record relating to drug or alcohol testing of a state employee is classified as a private record under Section 63G-2-302.

~~[(4)]~~ (5) A physician, medical clinic, or testing facility may not be held liable in any civil action brought by a party for:

(a) performing or failing to perform a test under this section;

(b) issuing or failing to issue a test result under this section; or

(c) acting or omitting to act in any other way in good faith under this section.

Section 50. Section **63G-2-302** is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review

2109 of Executive Branch Ethics Complaints;

2110 (f) records received or generated for a Senate confirmation committee concerning

2111 character, professional competence, or physical or mental health of an individual:

2112 (i) if, prior to the meeting, the chair of the committee determines release of the records:

2113 (A) reasonably could be expected to interfere with the investigation undertaken by the

2114 committee; or

2115 (B) would create a danger of depriving a person of a right to a fair proceeding or

2116 impartial hearing; and

2117 (ii) after the meeting, if the meeting was closed to the public;

2118 (g) employment records concerning a current or former employee of, or applicant for

2119 employment with, a governmental entity that would disclose that individual's home address,

2120 home telephone number, social security number, insurance coverage, marital status, or payroll

2121 deductions;

2122 (h) records or parts of records under Section 63G-2-303 that a current or former

2123 employee identifies as private according to the requirements of that section;

2124 (i) that part of a record indicating a person's social security number or federal employer

2125 identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202,

2126 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

2127 (j) that part of a voter registration record identifying a voter's:

2128 (i) driver license or identification card number;

2129 (ii) social security number, or last four digits of the social security number;

2130 (iii) email address;

2131 (iv) date of birth; or

2132 (v) phone number;

2133 (k) a voter registration record that is classified as a private record by the lieutenant

2134 governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or

2135 20A-2-204(4)(b);

2136 (l) a voter registration record that is withheld under Subsection 20A-2-104(7);

2137 (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any

2138 verification submitted in support of the form;

2139 (n) a record that:

2140 (i) contains information about an individual;
2141 (ii) is voluntarily provided by the individual; and
2142 (iii) goes into an electronic database that:
2143 (A) is designated by and administered under the authority of the Chief Information
2144 Officer; and
2145 (B) acts as a repository of information about the individual that can be electronically
2146 retrieved and used to facilitate the individual's online interaction with a state agency;
2147 (o) information provided to the Commissioner of Insurance under:
2148 (i) Subsection 31A-23a-115(3)(a);
2149 (ii) Subsection 31A-23a-302(4); or
2150 (iii) Subsection 31A-26-210(4);
2151 (p) information obtained through a criminal background check under Title 11, Chapter
2152 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
2153 (q) information provided by an offender that is:
2154 (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap
2155 Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and
2156 (ii) not required to be made available to the public under Subsection 77-41-110(4) or
2157 77-43-108(4);
2158 (r) a statement and any supporting documentation filed with the attorney general in
2159 accordance with Section 34-45-107, if the federal law or action supporting the filing involves
2160 homeland security;
2161 (s) electronic toll collection customer account information received or collected under
2162 Section 72-6-118 and customer information described in Section 17B-2a-815 received or
2163 collected by a public transit district, including contact and payment information and customer
2164 travel data;
2165 (t) an email address provided by a military or overseas voter under Section
2166 20A-16-501;
2167 (u) a completed military-overseas ballot that is electronically transmitted under Title
2168 20A, Chapter 16, Uniform Military and Overseas Voters Act;
2169 (v) records received by or generated by or for the Political Subdivisions Ethics Review
2170 Commission established in Section 63A-15-201, except for:

2171 (i) the commission's summary data report that is required in Section 63A-15-202; and

2172 (ii) any other document that is classified as public in accordance with Title 63A,

2173 Chapter 15, Political Subdivisions Ethics Review Commission;

2174 (w) a record described in Section 53G-9-604 that verifies that a parent was notified of
2175 an incident or threat;

2176 (x) a criminal background check or credit history report conducted in accordance with
2177 Section 63A-3-201;

2178 (y) a record described in Subsection 53-5a-104(7);

2179 (z) on a record maintained by a county for the purpose of administering property taxes,
2180 an individual's:

2181 (i) email address;

2182 (ii) phone number; or

2183 (iii) personal financial information related to a person's payment method;

2184 (aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an
2185 exemption, deferral, abatement, or relief under:

2186 (i) Title 59, Chapter 2, Part 11, Exemptions, Deferrals, and Abatements;

2187 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;

2188 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or

2189 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions; ~~and~~

2190 (bb) a record provided by the State Tax Commission in response to a request under
2191 Subsection 59-1-403(4)(y)(iii)[-]; and

2192 (cc) a record relating to drug or alcohol testing of a state employee under Section
2193 63A-17-1004.

2194 (2) The following records are private if properly classified by a governmental entity:

2195 (a) records concerning a current or former employee of, or applicant for employment
2196 with a governmental entity, including performance evaluations and personal status information
2197 such as race, religion, or disabilities, but not including records that are public under Subsection
2198 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

2199 (b) records describing an individual's finances, except that the following are public:

2200 (i) records described in Subsection 63G-2-301(2);

2201 (ii) information provided to the governmental entity for the purpose of complying with

2202 a financial assurance requirement; or
2203 (iii) records that must be disclosed in accordance with another statute;
2204 (c) records of independent state agencies if the disclosure of those records would
2205 conflict with the fiduciary obligations of the agency;
2206 (d) other records containing data on individuals the disclosure of which constitutes a
2207 clearly unwarranted invasion of personal privacy;
2208 (e) records provided by the United States or by a government entity outside the state
2209 that are given with the requirement that the records be managed as private records, if the
2210 providing entity states in writing that the record would not be subject to public disclosure if
2211 retained by it;
2212 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
2213 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a
2214 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and
2215 (g) audio and video recordings created by a body-worn camera, as defined in Section
2216 77-7a-103, that record sound or images inside a home or residence except for recordings that:
2217 (i) depict the commission of an alleged crime;
2218 (ii) record any encounter between a law enforcement officer and a person that results in
2219 death or bodily injury, or includes an instance when an officer fires a weapon;
2220 (iii) record any encounter that is the subject of a complaint or a legal proceeding
2221 against a law enforcement officer or law enforcement agency;
2222 (iv) contain an officer involved critical incident as defined in Subsection
2223 76-2-408(1)(f); or
2224 (v) have been requested for reclassification as a public record by a subject or
2225 authorized agent of a subject featured in the recording.
2226 (3) (a) As used in this Subsection (3), "medical records" means medical reports,
2227 records, statements, history, diagnosis, condition, treatment, and evaluation.
2228 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
2229 doctors, or affiliated entities are not private records or controlled records under Section
2230 63G-2-304 when the records are sought:
2231 (i) in connection with any legal or administrative proceeding in which the patient's
2232 physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Section 51. Section **63I-5-201** is amended to read:

63I-5-201. Internal auditing programs -- State agencies.

(1) (a) The departments of [~~Administrative Services~~] Government Operations, Agriculture, Commerce, Cultural and Community Engagement, Corrections, Workforce Services, Environmental Quality, Health, Human Services, Natural Resources, Public Safety, and Transportation, and the State Tax Commission shall conduct various types of auditing procedures as determined by the agency head or governor.

(b) The governor may, by executive order, require a state agency not described in Subsection (1)(a) to establish an internal audit program.

(c) The governor shall ensure that each state agency that reports to the governor has adequate internal audit coverage.

(2) (a) The Administrative Office of the Courts shall establish an internal audit program under the direction of the Judicial Council, including auditing procedures for courts not of record.

(b) The Judicial Council may, by rule, require other judicial agencies to establish an internal audit program.

(3) (a) Dixie State University, the University of Utah, Utah State University, Salt Lake Community College, Southern Utah University, Utah Valley University, Weber State University, and Snow College shall establish an internal audit program under the direction of the Utah Board of Higher Education.

(b) The Utah Board of Higher Education may issue policies requiring other higher education entities or programs to establish an internal audit program.

(4) The State Board of Education shall establish an internal audit program that provides internal audit services for each program administered by the State Board of Education.

(5) Subject to Section 32B-2-302.5, the internal audit division of the Department of Alcoholic Beverage Control shall establish an internal audit program under the direction of the

2264 Alcoholic Beverage Control Commission.

2265 Section 52. Section **67-3-12** is amended to read:

2266 **67-3-12. Utah Public Finance Website -- Establishment and administration --**
2267 **Records disclosure -- Exceptions.**

2268 (1) As used in this section:

2269 (a) (i) Subject to Subsections (1)(a)(ii) and (iii), "independent entity" means the same
2270 as that term is defined in Section 63E-1-102.

2271 (ii) "Independent entity" includes an entity that is part of an independent entity
2272 described in Subsection (1)(a)(i), if the entity is considered a component unit of the
2273 independent entity under the governmental accounting standards issued by the Governmental
2274 Accounting Standards Board.

2275 (iii) "Independent entity" does not include the Utah State Retirement Office created in
2276 Section 49-11-201.

2277 (b) "Local education agency" means a school district or charter school.

2278 (c) "Participating local entity" means:

2279 (i) a county;

2280 (ii) a municipality;

2281 (iii) a local district under Title 17B, Limited Purpose Local Government Entities -
2282 Local Districts;

2283 (iv) a special service district under Title 17D, Chapter 1, Special Service District Act;

2284 (v) a housing authority under Title 35A, Chapter 8, Part 4, Housing Authorities;

2285 (vi) a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District
2286 Act;

2287 (vii) except for a taxed interlocal entity as defined in Section 11-13-602:

2288 (A) an interlocal entity as defined in Section 11-13-103;

2289 (B) a joint or cooperative undertaking as defined in Section 11-13-103; or

2290 (C) any project, program, or undertaking entered into by interlocal agreement in
2291 accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

2292 (viii) except for a taxed interlocal entity as defined in Section 11-13-602, an entity that
2293 is part of an entity described in Subsections (1)(c)(i) through (vii), if the entity is considered a
2294 component unit of the entity described in Subsections (1)(c)(i) through (vii) under the

2295 governmental accounting standards issued by the Governmental Accounting Standards Board;

2296 or

2297 (ix) a conservation district under Title 17D, Chapter 3, Conservation District Act.

2298 (d) (i) "Participating state entity" means the state of Utah, including its executive,

2299 legislative, and judicial branches, its departments, divisions, agencies, boards, commissions,

2300 councils, committees, and institutions.

2301 (ii) "Participating state entity" includes an entity that is part of an entity described in

2302 Subsection (1)(d)(i), if the entity is considered a component unit of the entity described in

2303 Subsection (1)(d)(i) under the governmental accounting standards issued by the Governmental

2304 Accounting Standards Board.

2305 (e) "Public finance website" or "website" means the website established by the state

2306 auditor in accordance with this section.

2307 (f) "Public financial information" means each record that is required under this section

2308 or by rule made by the Office of the State Auditor under Subsection (8) to be made available on

2309 the public finance website, a participating local entity's website, or an independent entity's

2310 website.

2311 (g) "Qualifying entity" means:

2312 (i) an independent entity;

2313 (ii) a participating local entity;

2314 (iii) a participating state entity;

2315 (iv) a local education agency;

2316 (v) a state institution of higher education as defined in Section 53B-3-102;

2317 (vi) the Utah Educational Savings Plan created in Section ~~[58B-8a-103]~~ 53B-8a-103;

2318 (vii) the Utah Housing Corporation created in Section 63H-8-201;

2319 (viii) the School and Institutional Trust Lands Administration created in Section

2320 53C-1-201;

2321 (ix) the Utah Capital Investment Corporation created in Section 63N-6-301; or

2322 (x) a URS-participating employer.

2323 (h) (i) "URS-participating employer" means an entity that:

2324 (A) is a participating entity, as that term is defined in Section 49-11-102; and

2325 (B) is not required to report public financial information under this section as a

2326 qualifying entity described in Subsections (1)(g)(i) through (ix).
2327 (ii) "URS-participating employer" does not include:
2328 (A) the Utah State Retirement Office created in Section 49-11-201; or
2329 (B) a withdrawing entity.
2330 (i) (i) "Withdrawing entity" means an entity that elects to withdraw from participation
2331 in a system or plan under Title 49, Chapter 11, Part 6, Procedures and Records.
2332 (ii) "Withdrawing entity" includes a withdrawing entity, as that term is defined in
2333 Sections 49-11-623 and 49-11-624.
2334 (2) The state auditor shall establish and maintain a public finance website in
2335 accordance with this section.
2336 (3) The website shall:
2337 (a) permit Utah taxpayers to:
2338 (i) view, understand, and track the use of taxpayer dollars by making public financial
2339 information available on the Internet for participating state entities, independent entities,
2340 participating local entities, and URS-participating employers, using the website; and
2341 (ii) link to websites administered by participating local entities, independent entities, or
2342 URS-participating employers that do not use the website for the purpose of providing public
2343 financial information as required by this section and by rule made under Subsection ~~[(8)]~~ (9);
2344 (b) allow a person that has Internet access to use the website without paying a fee;
2345 (c) allow the public to search public financial information on the website;
2346 (d) provide access to financial reports, financial audits, budgets, or other financial
2347 documents that are used to allocate, appropriate, spend, and account for government funds, as
2348 may be established by rule made in accordance with Subsection (9);
2349 (e) have a unique and simplified website address;
2350 (f) be guided by the principles described in Subsection 63A-16-202(2);
2351 (g) include other links, features, or functionality that will assist the public in obtaining
2352 and reviewing public financial information, as may be established by rule made under
2353 Subsection (9); and
2354 (h) include a link to school report cards published on the State Board of Education's
2355 website under Section 53E-5-211.
2356 (4) The state auditor shall:

(a) establish and maintain the website, including the provision of equipment, resources, and personnel as necessary;

(b) maintain an archive of all information posted to the website;

(c) coordinate and process the receipt and posting of public financial information from participating state entities; and

(d) coordinate and regulate the posting of public financial information by participating local entities and independent entities.

(5) A qualifying entity shall permit the public to view the qualifying entity's public financial information by posting the public financial information to the public finance website in accordance with rules made under Subsection (9).

(6) The content of the public financial information posted to the public finance website is the responsibility of the qualifying entity posting the public financial information.

(7) A URS-participating employer shall provide employee compensation information for each fiscal year ending on or after June 30, 2022:

(a) to the state auditor for posting on the Utah Public Finance Website; or

(b) (i) through the URS-participating employer's own website; and

(ii) via a link to the website described in Subsection (7)(b)(i), submitted to the state auditor for posting on the Utah Public Finance Website.

(8) (a) A qualifying entity may not post financial information that is classified as private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act, to the public finance website.

(b) An individual who negligently discloses financial information that is classified as private, protected, or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is not criminally or civilly liable for an improper disclosure of the financial information if the financial information is disclosed solely as a result of the preparation or publication of the website.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Office of the State Auditor:

(a) shall make rules to:

(i) establish which records a qualifying entity is required to post to the public finance website; and

(ii) establish procedures for obtaining, submitting, reporting, storing, and posting public financial information on the public finance website; and

(b) may make rules governing when a qualifying entity is required to disclose an expenditure made by a person under contract with the qualifying entity, including the form and content of the disclosure.

(10) The rules made under Subsection (9) shall only require a URS-participating employer to provide employee compensation information for each fiscal year ending on or after June 30, 2022:

(a) to the state auditor for posting on the public finance website; or

(b) (i) through the URS-participating employer's own website; and

(ii) via a link to the website described in Subsection (10)(b)(i), submitted to the state auditor for posting on the public finance website.

Section 53. Section **67-19a-101** is amended to read:

67-19a-101. Definitions.

As used in this chapter:

(1) "Abusive conduct" means the same as that term is defined in Section 67-26-102.

(2) "Administrator" means the person appointed under Section 67-19a-201 to head the Career Service Review Office.

(3) "Career service employee" means a person employed in career service as defined in Section ~~[67-19-3]~~ 63A-17-102.

(4) "Division" means the Division of Human Resource Management.

(5) "Employer" means the state of Utah and all supervisory personnel vested with the authority to implement and administer the policies of an agency.

(6) "Excusable neglect" means harmless error, mistake, inadvertence, surprise, a failure to discover evidence that, through due diligence, could not have been discovered in time to meet the applicable time period, misrepresentation or misconduct by the employer, or any other reason justifying equitable relief.

(7) "Grievance" means:

(a) a complaint by a career service employee concerning any matter touching upon the relationship between the employee and the employer;

(b) any dispute between a career service employee and the employer;

(c) a complaint by a reporting employee that a public entity has engaged in retaliatory action against the reporting employee; and

(d) a complaint that the employer subjected the employee to conditions that a reasonable person would consider intolerable, including abusive conduct.

(8) "Office" means the Career Service Review Office created under Section 67-19a-201.

(9) "Public entity" means the same as that term is defined in Section 67-21-2.

(10) "Reporting employee" means an employee of a public entity who alleges that the public entity engaged in retaliatory action against the employee.

(11) "Retaliatory action" means to do any of the following to an employee in violation of Section 67-21-3:

(a) dismiss the employee;

(b) reduce the employee's compensation;

(c) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;

(d) fail to promote the employee if the employee would have otherwise been promoted; or

(e) threaten to take an action described in Subsections (11)(a) through (d).

(12) "Supervisor" means the person:

(a) to whom an employee reports; or

(b) who assigns and oversees an employee's work.

Section 54. Section **67-27-101** is enacted to read:

CHAPTER 27. GENERAL REQUIREMENTS FOR STATE OFFICERS AND EMPLOYEES

67-27-101. Title

This chapter is known as "General Requirements for State Officers and Employees."

Section 55. Section **67-27-102**, which is renumbered from Section 63A-17-901 is renumbered and amended to read:

[63A-17-901]. 67-27-102. Definitions.

As used in this [part] chapter:

(1) "Career service employee" means the same as that term is defined in Section

2450 63A-17-102.

2451 (2) "Executive branch elected official" means:

2452 (a) the governor;

2453 (b) the lieutenant governor;

2454 (c) the attorney general;

2455 (d) the state treasurer; or

2456 (e) the state auditor.

2457 (3) "Executive branch official" means an individual who:

2458 (a) is a management level employee of an executive branch elected official; and

2459 (b) is not a career service employee.

2460 (4) "State agency" means a department, division, board, council, committee, institution,
2461 office, bureau, or other similar administrative unit of the executive branch of state government.

2462 Section 56. Section **67-27-103**, which is renumbered from Section 63A-17-902 is
2463 renumbered and amended to read:

2464 **~~[63A-17-902].~~ 67-27-103. State agency work week.**

2465 (1) Except as provided in Subsection (2), and subject to Subsection (3):

2466 (a) a state agency with five or more employees shall, at least nine hours per day on
2467 Monday, Tuesday, Wednesday, Thursday, and Friday to provide a service required by statute to
2468 another entity of the state, a political subdivision, or the public:

2469 (i) in person;

2470 (ii) online; or

2471 (iii) by telephone; and

2472 (b) a state agency with fewer than five employees shall, at least eight hours per day on
2473 Monday, Tuesday, Wednesday, Thursday, and Friday, provide a service required by statute to
2474 another entity of the state, a political subdivision, or the public:

2475 (i) in person;

2476 (ii) online; or

2477 (iii) by telephone.

2478 (2) (a) Subsection (1) does not require a state agency to operate a physical location, or
2479 provide a service, on a holiday established under Section 63G-1-301.

2480 (b) Except for a legal holiday established under Section 63G-1-301, the following state

2481 agencies shall operate at least one physical location, and as many physical locations as
2482 necessary, at least nine hours per day on Monday, Tuesday, Wednesday, Thursday, and Friday
2483 to provide a service required by statute to another entity of the state, a political subdivision, or
2484 the public:

- 2485 (i) the Division of Technology Services, created in Section 63A-16-103;
- 2486 (ii) the Division of Child and Family Services, created in Section 62A-4a-103; and
- 2487 (iii) the Office of Guardian Ad Litem, created in Section 78A-2-802.

2488 (3) A state agency shall make staff available, as necessary, to provide:

2489 (a) services incidental to a court or administrative proceeding, during the hours of
2490 operation of a court or administrative body, including:

- 2491 (i) testifying;
- 2492 (ii) the production of records or evidence; and
- 2493 (iii) other services normally available to a court or administrative body;
- 2494 (b) security services; and
- 2495 (c) emergency services.

2496 (4) This section does not limit the days or hours a state agency may operate.

2497 (5) To provide a service as required by Subsection (1), the chief administrative officer
2498 of a state agency may determine:

2499 (a) the number of physical locations, if any are required by this section, operating each
2500 day;

- 2501 (b) the daily hours of operation of a physical location;
- 2502 (c) the number of state agency employees who work per day; and
- 2503 (d) the hours a state agency employee works per day.

2504 (6) To provide a service as required by Subsection (2)(b), the chief administrative
2505 officer of a state agency, or a person otherwise designated by law, may determine:

- 2506 (a) the number of physical locations operating each day;
- 2507 (b) the daily hours of operation, as required by Subsection (2)(b), of each physical
2508 location;

2509 (c) the number of state agency employees who work per day; and

2510 (d) the hours a state agency employee works per day.

2511 (7) A state agency shall:

2512 (a) provide information, accessible from a conspicuous link on the home page of the
2513 state agency's website, on a method that a person may use to schedule an in-person meeting
2514 with a representative of the state agency; and

2515 (b) except as provided in Subsection (8), as soon as reasonably possible:

2516 (i) contact a person who makes a request for an in-person meeting; and

2517 (ii) when appropriate, schedule and hold an in-person meeting with the person that
2518 requests an in-person meeting.

2519 (8) A state agency is not required to comply with Subsection (7)(b) to the extent that
2520 the contact or meeting:

2521 (a) would constitute a conflict of interest;

2522 (b) would conflict or interfere with a procurement governed by Title 63G, Chapter 6a,
2523 Utah Procurement Code;

2524 (c) would violate an ethical requirement of the state agency or an employee of the state
2525 agency; or

2526 (d) would constitute a violation of law.

2527 Section 57. Section ~~67-27-104~~, which is renumbered from Section 63A-17-903 is
2528 renumbered and amended to read:

2529 ~~[63A-17-903].~~ **67-27-104. Restrictions on outside employment by executive**
2530 **branch employees.**

2531 (1) An employee who is under the direction or control of an executive branch elected
2532 official may not engage in outside employment that:

2533 (a) constitutes a conflict of interest;

2534 (b) interferes with the ability of the employee to fulfill the employee's job
2535 responsibilities;

2536 (c) constitutes the provision of political services, political consultation, or lobbying;

2537 (d) involves the provision of consulting services, legal services, or other services to a
2538 person that the employee could, within the course and scope of the employee's primary
2539 employment, provide to the person; or

2540 (e) interferes with the hours that the employee is expected to perform work under the
2541 direction or control of an executive branch elected official, unless the employee takes
2542 authorized personal leave during the time that the person engages in the outside employment.

2543 (2) An executive branch official shall be subject to the same restrictions on outside
2544 employment as a career service employee.

2545 (3) This section does not prohibit an employee from advocating the position of the
2546 state office that employs the employee regarding legislative action or other government action.

2547 Section 58. **Repealer.**

2548 This bill repeals:

2549 Section **63A-16-106, Offices within the division -- Administration.**

2550 Section **63A-16-212, Agency services -- Chief information officer manages.**

2551 Section **63A-16-213, Duties of the division -- Agency services.**

2552 Section **63A-16-401, Definitions.**

2553 Section **63A-16-402, Enterprise technology -- Chief information officer manages.**

2554 Section **63A-16-403, Duties of the division -- Enterprise technology.**

2555 Section **63A-16-502, Office of Integrated Technology.**

2556 Section **63A-16-503, Duties of the division -- Integrated technology.**